



***Governing the Nation from the Statehouses:  
The Rightwing Agenda in the States  
and How Progressives Can Fight Back***

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**About the Progressive States Network:** The Progressive States Network's mission is to drive public policy debates and change the political landscape in the United States by focusing on attainable and progressive state level actions. It does this by providing coordinated research support for a network of State legislators, their staff's and constituencies, in order to equip them with coherent logistical and strategic advocacy tools necessary for advancing key progressive economic and social policies.

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# Table of Contents

<b>Executive Summary</b>	<b>iv</b>
<b>Introduction</b>	<b>1</b>
<b>Why State Policy Matters</b>	<b>3</b>
<b>How ALEC and the Rightwing Operates in the States</b>	<b>5</b>
ALEC: The Laundry for Corporate Money	5
ALEC’s Allies in the States	6
Why States Are Vulnerable to Rightwing Takeover	7
Examples of ALEC State Takeovers	7
<b>The ALEC Agenda: The Immediate Payoff to its Corporate Backers</b>	<b>9</b>
Defending Oil Companies from Global Warming Legislation	9
Serving Big Pharma: Fighting Importation of Prescription Drugs	10
Protecting Low-Wage Employers: Rolling Back Labor Rights	11
Telecoms: Blocking Municipal Broadband at Expense of High Tech	12
Helping Insurance Companies Fight Off Corporate Accountability	13
The Bankers Payoff from Long Term Health Care “Reform”	13
<b>The ALEC Strategy: Structural Assault on Progressive Power</b>	<b>15</b>
Limiting State and Local Tax Powers	15
Litigation “Reform”: Shutting the Courtroom Door	17
Gutting State Regulatory Powers	19
Privatization- Undermining Unions and Public Accountability	20
Dismantling Public Employee Pensions	22
Using State Law to Defund the Left	23
Wedge Issues by the Right	25
Federalism Hypocrisy: Crippling State Power and Local Home Rule	26
<b>How Progressives Fight Back</b>	<b>28</b>
The Headline Issues	28
The Strategic Agenda	30
<b>Conclusion</b>	<b>34</b>
<b>ENDNOTES</b>	<b>35</b>

# Executive Summary

## THE CONSERVATIVE THREAT IN THE STATEHOUSES

Backed by many of the largest corporations in the country and networked into conservative think tanks and allied political operations, the American Legislative Exchange Council (ALEC) has helped draft and promote state legislation across the country that has crippled social service budgets, deregulated industries, slashed medical care for the poor and undermined consumer and worker protections in state after state.

- More than 2400 state lawmakers -- roughly one-third of all state legislators -- are claimed as members of the conservative American Legislative Exchange Council (ALEC)
- 34 state Speakers of the House, 25 state Senate Presidents, 31 state Senate Leaders and 33 state House Leaders are ALEC members
- In 2004 alone, 1,108 ALEC model bills were introduced and 178 were enacted into law, a track record that ALEC and its conservative allies have been repeating year after year.

## WHY STATE POLICY MATTERS

What the rightwing recognizes is that with a coordinated strategy, a movement can govern the nation from the statehouses. Progressives need to fully understand why state policy matters and how powerful, pervasive and influential those policies are in our everyday lives.

- **Domestic Spending:** State and local revenues account for 16.2% of the Gross Domestic Product, almost exactly equal to federal revenues as a percentage of GDP. Increasing “flexibility” and “waivers” offered to states in how they administer programs like TANF and Medicaid increases the stakes in who controls state legislatures.
- **Law and Tort Liability:** State courts reported 17 million civil cases in 2003, including contract, tort and real property disputes. Through state law and liability rules, the states regulate trillions of dollars of commerce in the economy.
- **Employment Rights:** While most media focus remains on the application of federal civil rights or labor laws, these only protect employment rights against a baseline of job protections determined by state law.
- **Consumer Rights and Business Regulation:** In consumer law, most rights are determined by state law and states still retain great power to regulate industries, especially when they combine efforts through regional “compacts,” a recently emerging trend in environmental regulation.
- **Public Pension Funds:** One of the least understood areas of increasing state power is that wielded by public pension funds, which now control \$2.7 trillion in financial assets.
- **Criminal Justice:** While there were 170,535 federal prisoners in 2004, this is dwarfed by the 1.9 million prisoners in state and local prisons and jails. Criminal sentencing decisions that have decimated a generation of young people, especially in minority communities, were made in statehouses, not on Capitol Hill.

## HOW ALEC AND THE RIGHTWING OPERATE IN THE STATES

At its heart, ALEC is little more than a tax-exempt recipient and front for some of the nation's largest corporations, as companies ranging from Enron, ExxonMobil, Coors Brewing, Pfizer to Phillip Morris have paid for ALEC's expansion and success:

- Corporate-dominated task forces of ALEC and other non-profit groups provide industry with, in the words of one former industry co-chair, "a channel to express its interests to a majority of the states' speakers of the house and presidents of the senate."
- A key to ALEC's success is that it coordinates the introduction of legislation with national experts, local political operations, state-based think tanks, national issue-based lobbying networks and direct corporate lobbying in the statehouses.
- States are vulnerable to rightwing takeover because most state legislatures are made up of poorly paid, part-time lawmakers with few if any staff to research or evaluate the laws they are asked to approve. There are therefore few staff who can challenge the expertise presented by conservative operatives or to uncover the hidden payoffs for corporate interests contained in the legislation.
- By setting the agenda in the statehouses, even a legislative defeat gives ALEC's legislative allies an issue to run on at the next election, with progressives always reacting and often having little to say in response.

## THE ALEC AGENDA: THE IMMEDIATE PAYOFF TO ITS CORPORATE BACKERS

The rightwing network fronted by ALEC gives a "public interest" sheen to the raw special pleading of corporate interests that have bought a slot on the organization's board. Some examples of its recent agenda items includes:

- **Defending Oil Companies from Global Warming Legislation:** Backed by the oil industry, ALEC lined up legislators to "temporarily" lower taxes on gasoline to divert attention from record oil company profits. ALEC has also worked to undermine regulations aimed at curbing the carbon dioxide emissions leading to global warming.
- **Serving Big Pharma: Fighting the Importation of Prescription Drugs:** ALEC and its drug company backers have mounted a full-scale campaign to defeat initiatives by cities and states to promote importing prescription medicines from Canada.
- **Protecting Low-Wage Employers: Rolling Back Labor Rights:** ALEC has promoted legislation to block local governments from raising local minimum wages or even requiring government contractors to pay a fair wage to their employees.
- **Telecoms: Blocking Municipal Broadband at Expense of High Tech:** ALEC has worked to block or hamstring cities trying to build cheaper or even free Internet services for their residents.
- **Helping Insurance Companies Fight Off Corporate Accountability:** ALEC has been promoting a campaign to stop state insurance commissioners from requiring insurance companies to meet the same accountability and auditing rules **that** were imposed on publicly-traded corporations in the wake of the Enron debacle.
- **The Bankers Payoff from Long Term Health Care "Reform":** ALEC has been advocating cracking down on seniors who shelter income in a home while using Medicaid to finance long term care, a campaign to undermine health care for seniors and force them to buy "reverse annuity mortgages" from ALEC's financial industry patrons.

## THE ALEC STRATEGY: STRUCTURAL ASSAULT ON PROGRESSIVE POWER

While these individual campaigns enriching its corporate backers are bad enough, the real danger from ALEC and its associated organizations is their promotion of coordinated strategies to structurally undermine the very capacities of government that restrain corporate power. Their goal is to fuel campaigns that fracture progressive alliances and dismantle every tool of government. These strategic campaigns include:

- **Limiting State and Local Tax Powers:** By cutting tax revenues and imposing constitutional rules limiting state taxing powers, conservatives seek to make it politically impossible to fund social needs through government action and pit progressives against each other in competition over scarce financial resources.
- **Litigation "Reform": Shutting the Courtroom Door:** A key conservative goal is diminishing or even eliminating jury power to hold corporations accountable. This attack includes promoting urban legends of reckless jury awards, limiting juries' ability to award damages, preventing juries from even hearing evidence of corporate wrong-doing **and** designing legislation that forces low-ball settlements on poor plaintiffs.
- **Gutting State Regulatory Powers:** Conservatives aim to shut down the enforcement of business regulations, including limiting the powers of state attorneys generals, preventing citizen's lawsuits to enforce environmental and other regulations, crippling agency enforcement budgets, and eliminating state regulations altogether for many industries.
- **Privatization- Busting Public Unions and Disabling Public Accountability:** Privatization of public services serves multiple conservative goals, from undermining public employee unions to opening up government programs to religious fundamentalist allies to rewarding political contributors who fund the whole rightwing electoral machine.
- **Dismantling Public Employee Pensions:** Fearing use of pension funds to hold corporations accountable, conservatives have launched a far ranging campaign to dismantle current pension systems controlled by state officials and worker representatives in favor of 401(k)-style individual accounts managed by the financial services industry.
- **Using State Law to Defund the Left:** Conservatives increasingly use control of government to cut off the sources of funding for progressive politics. Shutting down the tort system cuts off funds to trial lawyers, so-called "paycheck protection" laws undermine union political action, and privatization shifts money from public employee activists to conservative corporate actors.
- **Wedge Issues by the Right:** A whole set of other issues, from gay marriage to attacks on welfare recipients, needless debates on creationism and challenges to sex education in the schools, are all used by the rightwing to create strains between different wings of the progressive movement and distract progressives from promoting a real alternative vision that would create a broader-based electoral alliance.
- **Federalism Hypocrisy: Crippling State Power and Local Home Rule:** ALEC and similar "state" groups give the conservative movement rhetorical cover for their hypocrisy in passing federal laws that preempt state power. The goal is a perverse system of federalism where states block progressive local government power, the federal government blocks progressive state action, and then the federal courts step in to block progressive federal laws – a neat conservative system of mutually-assured destruction of governmental tools at all levels of government.

## HOW PROGRESSIVES CAN FIGHT BACK

The key for progressives is to fight back, coordinate our own battles and think as strategically as ALEC and its allies do to win back power at the state level.

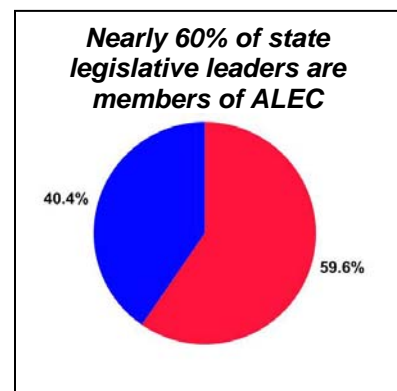
- First, we need to develop a deep national network of progressive legislators supported by grassroots organizations. Progressives need to use every tool of grassroots mobilization to deploy both strong policies and innovative strategies to beat the conservatives at their own game.
- Second, we need to promote a set of unabashedly popular and fundamentally sound issues that define the progressive state agenda in the minds of voters, such issues include:
  - a higher **minimum wage**;
  - extending **health care** to their states' citizens;
  - **progressive family issues** like paid family leave and making pre-kindergarten available to all children;
  - protecting **workplace free speech and employee privacy**;
  - promoting a **clean energy policy** that builds jobs in each state;
- And, finally, progressives need to develop a larger set of policies that beat back the rightwing attack and strategically turn the tables on conservatives. Examples include
  - **easing the burden of property taxes** to undermine "tax revolt" politics;
  - promoting policies to raise revenues by **cracking down on corporate tax evaders**;
  - undermining attacks by conservatives on families receiving Medicaid for long-term health care by **funding long-term care through estate taxes on the truly wealthy**;
  - challenging attacks on the tort system by **promoting the "right to trial" and exposing shady secret settlements** that cover-up corporate wrongdoing;
  - establishing **"truth in contracting" laws** to force conservatives to prove financial savings from privatization of government services;
  - building **new coalitions for prison reform** by using money cut from prison spending for economic development in both the communities in which prisoners are released and the communities in which prisons are located;
  - **using public pensions to promote job growth and affordable housing**, thereby building new constituencies with a stake in protecting them from privatization;
  - **reclaiming corporate property for public space**, from free speech on big box retail sidewalks to opening up private land to fishing, hunting and other outdoor recreation;
  - **requiring insurance companies to provide contraception** on the same terms as any other kind of medication as an issue to divide moderates from rightwing extremists;
  - promoting **resolutions against federal preemption of state laws** as a way to expose the hypocrisy of conservatives on "states rights."

Progressives can keep reacting and playing defense against conservatives and their corporate sponsors, or we can learn these lessons and turn the tables on the rightwing. If progressive legislators are armed with the legislative tools and mobilized support of our grassroots organizations, we can reverse conservative dominance of public policy and begin a new era of progressive governance of our nation's statehouses.

## Introduction

Every year conservative state legislators come together to mingle with corporate lobbyists and conservative activists to celebrate their success at advancing the rightwing agenda in statehouses across the country. With more than 2400 state lawmakers claimed as members -- roughly one-third of all state legislators -- the American Legislative Exchange Council (ALEC) annual meetings have become one of the critical fulcrums of conservative power in the United States.<sup>1</sup>

**ALEC's Success:** Backed by many of the largest corporations in the country and networked into conservative think tanks and allied political operations, ALEC helps draft and promote legislation that has crippled social service budgets, deregulated industries, slashed medical care for the poor and undermined consumer and worker protections in state after state. In 2004 alone, 1,108 ALEC model bills were introduced and 178 were enacted into law, a track record that ALEC and its conservative allies have been repeating year after year.<sup>2</sup> Given the prominence of its legislative supporters -- 34 state Speakers of the House, 25 state Senate Presidents, 31 state Senate Leaders and 33 state House Leaders are ALEC members -- this success is hardly surprising.<sup>3</sup>



**Sounding the Alarm:** What is surprising is how little attention most progressive activists and national commentators pay to this coordinated assault on progressive goals in our nation's statehouses. At least two major reports, one by the Natural Resources Defense Council (NRDC) and Defenders of Wildlife (DOW) in 2002<sup>4</sup> and another by People for the American Way (PFAW) and DOW in early 2003<sup>5</sup>, sought to sound the alarm about the method by which corporate America was laundering its agenda through ALEC's legislative efforts.

Yet three years after those alarming reports, local political organizations and unions continue to battle against ALEC and its allies in our statehouses in the shadow of virtual national media silence about these struggles and with little national progressive support in coordinating their response. Even the most sophisticated national political commentators typically see fights for control of state legislatures as important only in so far as it impacts redistricting of federal Congressional races.<sup>6</sup> Except for the occasional media spasm around a particularly virulent state legislative proposal, the overall march of conservative legislation in the statehouses gets relatively little attention for most progressive activists fixated on Capitol Hill and the White House.

**Conservative Focus on the States:** And the problem is that the rightwing is not making the same mistake. They see the battle for control of the states as potentially more critical than control in Washington, D.C. President Bush himself attended ALEC's 2005 annual meeting to thank the legislators for their work on behalf of the conservative agenda. Georgia State Representative Earl Ehrhart, national chairman of ALEC, said of the President's speech: "It was like the governor of a state talking to his legislative leaders."<sup>7</sup>

That is the critical point. The highest echelons of the conservative movement and corporate America treat state legislators not as members of fifty different institutions, but as a single set of leaders who can be mobilized on a national basis. The \$5-6 million annual budget for ALEC is only the tip of the iceberg of resources devoted by the corporate Right to achieving their national goals through systematic change in state laws and institutions. All of ALEC's work is supplemented by millions of dollars funneled through a network of think tanks devoted solely to state-level policy, dubbed the State Policy Network<sup>8</sup>, combined with additional millions spent by issue-oriented networks throughout the states, and backed by hundreds of millions of dollars of direct state lobbying and mobilization by the corporations themselves.



**Governing the Nation from the Statehouses:** What the rightwing recognizes is that with a coordinated strategy, a movement can govern the nation from the statehouses. And the conservative movement is pursuing not just individual bills that serve the financial interests of their corporate paymasters – which they of course are doing – but have also developed a set of integrated strategies whose purpose is to attack the base of progressive power, pit progressive constituencies against each other, and dismantle the underpinnings of rights for workers, consumers and communities to the point where federal political success for the Right becomes almost irrelevant.

**This Report:** The following report will therefore do a number of things: it will update from earlier reports the ongoing success of ALEC and its allies in advancing corporate interests in individual issue campaigns, lay out the broader strategies the rightwing is pursuing to dismantle the base for progressive power, outline a few of the high-profile wedge issues used to pit grassroots constituencies against each other, and, in the final section, outline the strategy and issues needed for progressives to not only respond to the conservative movement but begin its own coordinated fight to advance national progressive policy through the statehouses.

***“Except for the occasional media spasm around a particularly virulent state legislative proposal, the overall march of conservative legislation in the statehouses gets relatively little attention for most progressive activists fixated on Capitol Hill and the White House.”***

## Why State Policy Matters

Before laying out those conservative strategies, though, the key fact progressives need to understand fully is why state policy matters and the levers for conservative (as well as potentially progressive) power it therefore serves.

**Domestic Spending:** Most day-to-day discretionary political movement on domestic spending is happening at the state level, not the federal. State and local revenues account for 16.2% of the Gross Domestic Product<sup>9</sup>, almost exactly equal to federal revenues as a percentage of GDP.<sup>10</sup> But national politicians' control over federal revenue, especially on domestic spending, is often far less compared to the revenue controlled by state legislatures. Much of that federal revenue is locked by legislation into two large entitlements, Medicare and Social Security, programs which conservatives might dearly wish to dismantle but increasingly recognize are protected by filibuster and public support.

Much of the rest of federal domestic spending, from K-12 education to TANF to Medicaid, is largely transferred to the states, where those state legislatures have wide discretion over how the funds are then spent. The increasing “flexibility” and “waivers” offered to states in how they administer programs like TANF and Medicaid just further decreases the political stakes in who controls Congress year-to-year and increases the stakes in who controls the state legislatures. James Frogue, ALEC's Medicaid specialist has observed, in explaining conservatives' focus on state legislation, “Innovations and reforms in Medicaid will come from the states. They will not come from D.C.”<sup>11</sup>



State governments remain the primary source of both revenue and spending decisions for programs ranging from K-12 education to state colleges to the police, courts and prisons. And crucial programs for working families, like workers compensation for injured employees, a \$72.9 billion annual program<sup>12</sup>, and unemployment insurance, a \$34.1 billion annual program<sup>13</sup>, are almost completely administered by state governments with the rules for eligibility determined by state, not federal politicians.

**Law and Tort Liability:** State courts reported 17 million civil cases in 2003, including contract, tort and real property disputes. In the high profile debate over “tort reform,” it's critical to remember that these lawsuits are governed overwhelmingly by state law—thirty states that track tort cases had over 500,000 tort lawsuits in 2003 alone. While about half of these were automobile lawsuits, the other half involved a whole range of liability cases involving everything from medical injuries to suits against polluters.<sup>14</sup>

Under these laws, lawbreakers are forced to directly transfer \$113 billion each year to their victims, largely controlled by rules set by state governments.<sup>15</sup> And this amount understates the magnitude of the economic effects of these rules, since they deter a far greater range of actors from committing similar harms and thereby regulate trillions of dollars of commerce in the economy.

**Employment Rights:** While most media focus remains on the application of federal civil rights or labor laws, these only protect employment rights against a baseline of job protections determined by state law. Those federal rights are just modifications of the underlying rights of employees and employers determined by state legislation.

It is traditional state laws that, in contrast to European “just cause” requirements, allow employers to fire employees for largely any reason, even unrelated to their job duties. So while battles over federal employment laws get much of the national attention, ongoing battles in the states to legislatively and judicially limit the arbitrary discretion of employers is often where employee rights are being modified these days. As an article published by the conservative Cato Institute argued, “Today perhaps the biggest menace to employment freedom [i.e. to employers] comes from the state bench”<sup>16</sup> and they see conservative action at the state level to combat that as one of their top priorities.

Even where federal standards exist, as with the civil rights and minimum wage laws, many states have standards that supersede federal law by providing more expansive rights. Nearly half of the population lives in states where their minimum wage is set by state standards, not the federal government<sup>17</sup>, and gays and lesbians have no rights against discrimination outside of states where those rights have been protected.

**Consumer Rights and Business Regulation:** In realms of consumer law, most rights are determined almost solely by state law. Renters' rights and those of homebuyers are determined largely by state or local laws. And in areas like the environment, the first line of defense against illegal action is often existing state property and “nuisance” laws as much as federal legislation.

And while post-New Deal federal agencies overshadowed them, states still retain great power to regulate industries, especially when they combine efforts through regional “compacts”, as is emerging in environmental regulation, or through the combined efforts of their state Attorneys General. New York’s Elliot Spitzer has garnered the most headlines, but Attorneys General from states across the country have made their marks in tobacco litigation, antitrust enforcement and financial securities regulation,

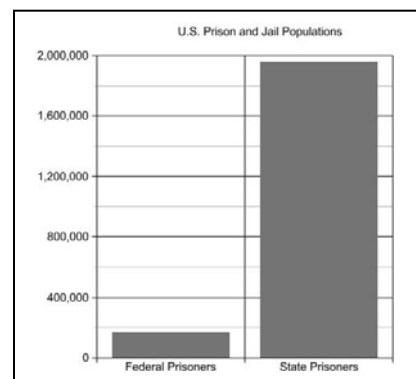
Due to legal exemption from federal regulation, the insurance industry and its massive \$3.8 trillion in assets remain almost solely under state regulation.<sup>18</sup> Which means that the rules for insurance coverage and payouts, most prominently the \$82 billion in auto liability insurance costs each year, are usually determined by state law.<sup>19</sup>

**Public Pension Funds:** One of the least understood areas of increasing state power is that wielded by public pension funds, which now control \$2.7 trillion in financial assets, the largest amount of active financial capital controlled by democratic governments in the world. Unlike the Social Security trust fund which is locked up in fixed rate government bonds, state pension funds are widely invested in the stock markets and have been increasingly used by their state-appointed trustees to both promote economically targeted investments for underserved communities and to demand greater accountability from corporations, pursuing what writer William Greider has called “far-ranging possibilities for reforming the economic system”<sup>20</sup> and what ALEC has labeled “politically driven investments” that must be stopped.<sup>21</sup>

With literally trillions of dollars and legal and regulatory decisions affecting the broad range of industries at stake, it’s little wonder that the corporate Right has made control of state legislatures a top priority.

**Criminal Justice:** While there were 170,535 federal prisoners in 2004, this is dwarfed by the 1.9 million prisoners in state and local prisons and jails.<sup>22</sup> The criminal sentencing decisions that have decimated a generation of young people in minority communities were made in statehouses, not Capitol Hill, decisions that led to a 529% increase in spending over the last two decades on prisons in this country.<sup>23</sup> And it is those statehouses that have largely created a thriving industry in running private prisons and employing prison labor.

With four and a half million Americans denied the right to vote because of past felony convictions, it is state “felony disenfranchisement” laws that are responsible for the main source of voting rights denial in modern America.<sup>24</sup>



# How ALEC and the Rightwing Operates in the States

While corporate lobbying in the statehouses of America is nothing new, dating back at least to the days of the Robber Barons, what is new in the modern era is the dedicated creation of “public interest” fronts like ALEC and the building of a façade of “astroturf” public support for this narrow corporate takeover of public institutions.

## ALEC: THE LAUNDRY FOR CORPORATE MONEY

At its heart, ALEC is little more than a tax-exempt front for some of the nation’s largest corporations, as companies ranging from Enron, ExxonMobil, Coors Brewing, Pfizer, Phillip Morris and many others companies have paid for ALEC’s expansion. Roughly three hundred “private sector members” – corporate sponsors paying tens of thousands of dollars each year – run the show at ALEC. They finance the organization and select the key issues it pushes. Dues by state legislators are nominal and amount to less than 1% of ALEC’s funding each year.<sup>25</sup> A representative of the pharmaceutical industry co-chairs the organization through its “Private Enterprise Board” of Directors, and representatives of the tobacco, food, telecom industries, along with traditional “New Right” companies like Coors and Koch Industries share in national leadership of ALEC.

Some companies buy an even more prominent seat at the ALEC table. At the height of the tobacco litigation, the major tobacco companies were directly giving ALEC \$200,000 per year, sponsoring golf tournaments and paying the organization’s legal bills, all as part of their efforts to lower excise taxes on tobacco and limit lawsuits by consumers and state governments.<sup>26</sup> This “pay to play” nature of ALEC has shown up in a few odd campaigns, such as when the Church of Scientology became one of ALEC’s underwriters in the mid-1990s with the purpose of blocking “mental health parity laws” that might have undercut the cult’s psychological “auditing” stream of revenue.<sup>27</sup>

In addition to regular annual payments, corporations pay additional annual fees of thousands of dollars to participate in ALEC’s various “task forces,” the bodies where state legislation is written in collaboration between corporate executives and rightwing state legislators.

### ALEC’s Private Enterprise Board of Directors Officers

Kurt L. Malmgren, Chairman of Private Enterprise Board  
**PhRMA** (pharmaceutical industry trade group )

Jerry Watson, Vice Chairman  
**American Bail Coalition** (insurance companies underwriting bail bonds)

Scott Fisher, Second Vice Chairman  
**Altria** (parent company of Kraft Foods & Philip Morris)

Pete Poynter, Treasurer  
**BellSouth Corporation**

Ronald F. Scheberle, Chairman Emeritus  
**Verizon Communications**

Michael K. Morgan, Immediate Past Chairman  
**Koch Industries**

Allan E. Auger, Chairman Emeritus  
**Coors Brewing Company**

### Select Industry Co-chairs of ALEC Task Forces

Rob Simon, **Chlorine Chemistry Council**  
Natural Resources Task Force

Randy Tompson, **R.J. Reynolds Tobacco**  
Tax and Fiscal Policy Task Force

Jim Ruda, **Intuit** (software company)  
Telecommunications and Information Technology Task Force

Janet Scott, **Wal-Mart Stores**  
Criminal Justice Task Force

Michael Harrold, **Property Casualty Insurers Association**  
Commerce, Insurance and Economic Development Task Force

Each task force is structured with a legislator and corporate representative as co-chairs, for example, in the past the Criminal Justice Task Force was chaired by Corrections Corporation of America, the leading company pushing for prison privatization in the 1990s, while the current industry co-chairman is from Wal-Mart, a company with an obvious interest in limiting the criminal liability of corporations under state law.<sup>28</sup>

As legislation is drafted and sent to ALEC legislator members in the states, these task forces provide industry with, in the words of one former industry co-chair, “a channel to express its interests to a majority of the states’ speakers of the house and presidents of the senate.”<sup>29</sup> Pharmaceutical industries draft legislation involving health care, telecom companies write legislation for state regulations of the phone industry, and oil and chemical companies write state environmental regulation.

## ALEC’S ALLIES IN THE STATES

A key to ALEC’s success is that it coordinates the introduction of legislation with national experts, politically-wired local political operations, state-based think tanks, national issue-based lobbying networks and direct corporate lobbying in the statehouses. ALEC was founded in 1973 by Paul Weyrich, the fountainhead of a cornucopia of “New Right” institutions, and it has remained as part of the nexus of the sprawling empire of rightwing organizations that serve to create an “echo chamber” around any issue ALEC promotes.

One of ALEC’s key policy allies is the Heartland Institute, whose research and “PolicyBot” online archive ([www.heartland.org/policybot.cfm](http://www.heartland.org/policybot.cfm)) of rightwing state policy writing ties together the state-based “experts” who give an intellectual veneer to the corporate lobbying embodied in ALEC’s legislation. Heartland’s multi-million dollar budget is overseen by a board of directors with a similar corporate stamp to ALEC’s—one board director is “Manager of Industry Affairs” at Philip Morris and another is “Director of Economic Policy” for General Motors – combined with board representatives from national research fronts of industry, such as the Cato Institute and Citizens for a Sound Economy.<sup>30</sup>

And on any particular issue, ALEC is joined by the political muscle devoted to that issue.

On tax and budget policies, Americans for Prosperity<sup>31</sup>, chaired by David Koch of Koch Industries which keeps a strong representation at ALEC, is a key backer of “Taxpayers Bill of Rights” legislation around the country (to be discussed later in this report) and is joined in that campaign by FreedomWorks, an offshoot of Citizens for a Sound Economy run by former House Majority Leader Dick Armey, who has made state-based tax and spending limitation his key campaign.

***“Name the issue and corporations have created public-spirited sounding research front groups and astroturf lobbying outfits to aid the legislative onslaught.”***

In fights over “tort reform”, ALEC’s legislation is backed by a wide range of organizations, from corporate lobbying outfits like the American Tort Reform Association (ATRA), a coalition of more than 300 major corporations and trade associations, the International Association of Defense Counsel, made up of corporate lawyers, the American Justice Partnership from the National Association of Manufacturers, and faux grassroots organizations under the banner of Citizens Against Lawsuit Abuse.

Similarly, ALEC’s campaigns over the environment and urban policy are joined by industry groups like the National Association of Home Builders, the Political Economy Research Center, UrbanFutures.Org (a project of Reason Foundation) and faux grassroots groups like Defenders of Property Rights.

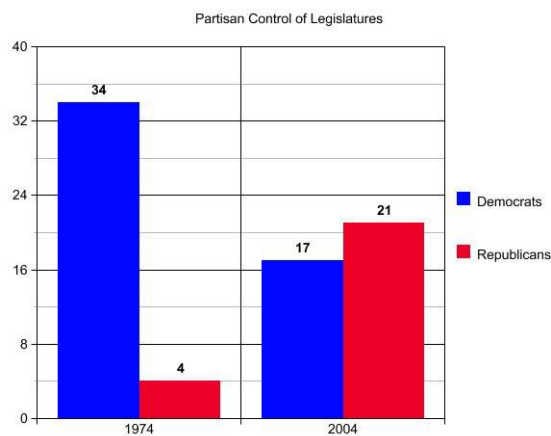
Name the issue and corporations have created public-spirited sounding research front groups and astroturf lobbying outfits to aid the legislative onslaught. And ALEC is there to help coordinate and bless their lobbying efforts through their legislative network.

## WHY STATES ARE VULNERABLE TO RIGHTWING TAKEOVER

Even as state legislatures make spending decisions of the same order as federal legislators, they generally lack any comparable staffing or support. Most state legislatures are made up of poorly paid, part-time lawmakers with few if any staff to research or evaluate the laws they are asked to approve.

So when ALEC delivers “model legislation” to its legislative allies to promote, there are few staff members in the legislature to challenge the expertise presented or uncover the hidden payoffs for corporate interests contained in the legislation. Moderate legislators appreciate the attention to their needs served by ALEC, so in times of political crisis (“crises” often created by the drumbeat of local media stories generated by ALEC corporate allies), they often feel they need to sign onto *some* legislation to solve the crisis. And if there is no alternative legislation available, ALEC can create majority support for its legislation just by being the only serious legislation being discussed on the matter.

Since states have little or no public reporting requirements that would require disclosure of junkets and gifts awarded to legislators, ALEC can spirit key state legislators off to luxury “conferences” to win them over to their legislation. And the lack in most states of public disclosure laws for lobbying means that ALEC and its allies can usually operate under the radar of any serious media or political scrutiny.<sup>32</sup>



On top of these structural weaknesses, progressives have just flat-out been losing political control of the states legislatures; 2002 was an especially low point, as Republicans had more state legislative seats than Democrats for the first time since 1952,<sup>33</sup> with a small uptick in Democratic gains in 2004. Democrats have dropped from fully controlling both houses in 34 state legislatures in 1974 down to control just 17 statehouses in 2004. In same period, Republicans went from fully controlling just 4 statehouses to controlling 21 by 2004.<sup>34</sup> These numbers actually overstate current progressive strength, since three of the “Democratic states” are Mississippi, Alabama and Louisiana which are dominated by conservative ALEC-allied Democrats, and other states have significant numbers of Democrats who sign onto ALEC-style policies if only because there is little progressive voice for alternative policies.

## EXAMPLES OF ALEC STATE TAKEOVERS

A few states in recent years have acted as virtual laboratories for ALEC, especially in the area of tort reform, as top ALEC legislative allies have controlled the flow of legislation in those states.

**Georgia:** After the Republican takeover of the Georgia state legislature, Georgia lawmakers introduced 43 ALEC model bills in 2004 and passed seven, with similar successes in 2005. Prominent GOP State Representative Earl Ehrhart became ALEC’s national chairman in 2002, with over 100 other Georgia lawmakers becoming members as well. When Georgia passed a series of tort reform laws, Ehrhart noted that, “Tort reform was pretty much the ALEC



model. We used the ALEC model bill as our template." A bill to make it harder to make claims against for asbestos damages was "purely an ALEC bill – every word."<sup>35</sup> And Georgia would repeatedly pass laws based on ALEC model legislation to shut down living wage laws in the City of Atlanta.

Even the political strategy to force through conservative legislation was hatched at an ALEC national meeting, where State House Speaker Glenn Richardson claims he got suggestions for a "hawk" system where roving top lieutenants can walk into any legislative committee meeting and join the voting to push through approval.<sup>36</sup>

**Mississippi:** Similarly, with a prominent conservative Mississippi Democrat, Sen. William Hewes, as ALEC chairman in 2004<sup>37</sup>, that state -- despite official Democratic control of both legislative chambers -- became what Robert Vagley, president of the American Insurance Association (AIA), called "a trailblazer in the national campaign to end lawsuit abuse and restore fairness and predictability to courts across the country."<sup>38</sup> State lawmakers passed a package of damage award caps to protect corporations from lawsuits in what was deemed a blueprint for other states.

**Ohio:** Similarly, the Ohio legislature passed a slew of ALEC bills in 2004, from legislative handouts to homebuilders to comprehensive tort legislation to a bill exempting the food industry from liability lawsuits. "ALEC had a very good year in Ohio," observed Steve Buehrer, ALEC Ohio state chair. Not only did the Ohio legislature pass many of the organization's bills, even where a specific bill did not pass, ALEC "helped shape the public policy debate."<sup>39</sup>

This last comment emphasizes the key problem: ALEC is setting the agenda in many states even when it loses a specific legislative battle. Even a legislative defeat gives ALEC's legislative allies an issue to run on at the next election with progressives having little to say in response. What progressives lack in most state legislatures is a coherent alternative vision and legislative strategy to mount in opposition to the comprehensive ALEC agenda, both on the floor of their legislative chambers and when they return to their constituents to run for reelection.

# The ALEC Agenda: The Immediate Payoff to its Corporate Backers

At its most basic level, the rightwing network fronted by ALEC gives a "public interest" sheen to the raw special pleading of the corporate interests that have bought a slot on the organization's board, even as it runs roughshod over broader public interests and even trampling businesses who haven't bought a table at the conservative club.

## DEFENDING OIL COMPANIES FROM GLOBAL WARMING LEGISLATION

In recent years, no special interest has invested more in ALEC than the oil industry; ExxonMobil alone contributed a whopping \$712,000 to ALEC in recent years,<sup>40</sup> with similar amounts going to allied organizations.<sup>41</sup> And the political payoff has been spectacular, as ALEC has helped lineup legislators to fight for lower taxes on gasoline and, even more critically, beat back state regulations aimed at curbing the carbon dioxide emissions leading to global warming. Dupont, Dow and Edison electric are among other companies that have paid millions to support ALEC's campaign to dismiss global warming as no more than, to quote ALEC, "the new mantra for environmentalists and non-governmental organizations in their quest to redistribute international and domestic wealth."<sup>42</sup>

ALEC's full panoply of tactics has been on display in this fight.

**Issuing national reports:** First, with help from CATO Institute's Patrick Michaels, a "climate skeptic," ALEC issued a report called "Global Warming and the Kyoto Protocol: Paper Tiger, Economic Dragon" to downplay the dangers of global warming. Distributing the report to its legislative allies in the states, ALEC used their study to easily deflect progress on state-level emissions bills in more conservative states.

**A 50-state strategy:** Part of ALEC's national perspective is recognition that strong progressive success in even a few states can be dangerous to conservative goals. "I believe the states are being used to force a federal mandate," said Sandy Liddy Bourne, who spearheads ALEC's global warming work. The worry was that environmentalists would force a "patchwork of greenhouse-gas regulations across the country" and lead industry to feel, "We cannot deal with the 50 monkeys. We must have one 800-pound gorilla." Environmentalists have in fact depended on this strategy in the past, so ALEC set out to undermine them even in their most friendly states in the Northeast.<sup>43</sup>

**Deploying model legislation:** When Maine in 2003 became the first state to make a legislative commitment to reduce greenhouse gas emissions, ALEC responded in 2005 by helping push through legislation it helped draft to limit any global warming regulations to those deemed "cost-effective" and requiring that special "economic impact" statements be drawn up before any new global warming legislation could be passed, a law that the Natural Resources Council called a "double standard" to hamper its legislative efforts.<sup>44</sup>

**Using local policy allies:** Part of ALEC's strength is using local research resources to promote national campaigns. As part of its Maine efforts, ALEC tapped support from the Maine Heritage Policy Center, a local conservative think tank, to issue a report just before the 2005 Maine law came to a vote that argued that the earlier global warming emission targets would undermine household income, cut state budget tax receipts and lead to large annual job losses.<sup>45</sup>

Similarly, when Connecticut was voting on global warming legislation in 2004, ALEC co-sponsored a study with the Connecticut-based Yankee Institute that carbon dioxide emission caps would similarly cost each household on the order of \$1000 per year, cut tax revenues and undermine job creation in the state.<sup>46</sup>

**Dividing progressives:** The emphasis in local reports on job losses was a calculated part of ALEC’s strategy to pit local unions against environmentalists over the global warming issue. ALEC proudly cites its maneuvers to line up union-backed Democrats in Connecticut and other Northeast states to undermine environmental legislation backed by Republican governors who have defected from the conservative party line on global warming.<sup>47</sup>

***“When Connecticut was voting on global warming legislation in 2004, ALEC co-sponsored a study with the Connecticut-based Yankee Institute that carbon dioxide emission caps would similarly cost each household on the order of \$1000 per year, cut tax revenues and undermine job creation in the state.”***

**A state voice to undermine state power:** And when all else fails at the state level, ALEC can use its position as a “representative” of state interests to advocate for the federal government shutting down rogue progressive state policy. Earlier Congresses have legally preempted state action on auto fuel efficiency and many energy standards, and ALEC has been supporting new federal laws to preempt state global warming laws. Jim Marzilli, a Massachusetts state representative and chairman of the National Caucus of Environmental Legislators, highlights the way ALEC “uses its muscle in statehouses across the country to lend a veneer of state support for federal preemption of state authority.”<sup>48</sup>

ALEC has even been deployed by its corporate masters to bring Congressional leaders to heel when they stray from the big oil political line. When Republican Speaker of the House Dennis Hastert, who has generally been a loyal servant of oil company interests, dared to venture a few minor criticisms of the oil companies, ALEC lined up with other conservative groups to criticize the Speaker for “pandering to polling” and betraying free market principles.<sup>49</sup>

## SERVING BIG PHARMA: FIGHTING THE IMPORTATION OF PRESCRIPTION DRUGS

The neck-wrenching political game of laundering a corporate position through ALEC’s “states rights” rhetoric to argue for federal gutting of state power has also been on display in ALEC’s campaign to stop state governments from importing cheaper prescription drugs from Canada. ALEC has argued that states should be banned by the federal Food and Drug Administration (FDA) from importing drugs. In the words of ALEC’s executive director, “the FDA should be allowed to do its job to protect Americans from potential dangers of illegal prescription drugs,”<sup>50</sup> reflecting ALEC’s shameless abandonment of “free market” and anti-regulation rhetoric whenever a particular campaign calls for it.

**Protecting PhRMA’s profits:** Given drug company funding for ALEC and a PhRMA representative serving as chair of ALEC’s main private industry governing board, it’s hardly surprising that ALEC has leapt to the defense of the pharmaceutical industry whenever states even mention their often obscene profits: as Marcia Angell, former Editor in Chief of *The New England Journal of Medicine* has written, “for over two decades, this industry has been far and away the most profitable in the United States.”<sup>51</sup> When states have accused drug companies of overcharging Medicaid, ALEC’s Jim Frogue has denounced state officials as “treating the pharmaceutical industry a bit like the tobacco industry and using it more as a cash cow for their own budget deficits.”<sup>52</sup> As if it would be a bad thing to require companies enjoying government-granted patent monopolies to contribute their fair share.

**Intimidating local governments:** As cities and states have begun pilot programs to encourage citizens to import select medicines from Canada as a way to cut the public tax burden on Medicaid of prescription drugs, ALEC has attacked those initiatives with a campaign of fear and flat-out intimidation.

When Boston announced its plan to allow 14,000 Boston city employees to import selected medicines from over the border, ALEC distributed a pamphlet (co-written with the Institute for Policy Innovation) that warned public officials that they could be personally hauled into court and held liable for gross negligence if they moved forward with importation.<sup>53</sup>

***“The campaign against drug importation has ended up being a twofer for ALEC: protecting a corporate patron’s bottom line while framing a campaign to pit affordable health care advocates against the trial lawyers, a classic wedge strategy for the organization.”***

**Wedging the Trial Lawyers:** At a press conference jointly called with the FDA, ALEC’s executive director declared, “States and municipalities that promote foreign drug purchases will eventually have a legal bull’s eye on their forehead when something goes wrong.” In a nice rhetorical twist, ALEC argued that its nemesis the trial lawyers were primed to sue any state that allowed reimportation of drugs, an action that the Association of Trial Lawyers of America denied was even possible under the law.<sup>54</sup>

But the campaign against drug importation has ended up being a twofer for ALEC: protecting a corporate patron’s bottom line while framing a campaign to pit affordable health care advocates against the trial lawyers, a classic wedge strategy for the organization.

## PROTECTING LOW-WAGE EMPLOYERS: ROLLING BACK LABOR RIGHTS

If advocating federal preemption is one side of ALEC’s disdain for local “Jeffersonian democracy” – one of the organizations’s supposed guiding principles -- its fervent campaigns to have state legislatures preempt local government power over labor issues is the other side of this hypocrisy.

**Attacking Minimum Wage Laws:** Lost in the post-Katrina media analysis of poverty in New Orleans is the story of the conservative movement’s role and particularly ALEC’s in maintaining that poverty. Supported by local unions and community groups like ACORN, the citizens of New Orleans in 2002 voted to raise the local minimum wage for local businesses by \$1 per hour, but the Louisiana state government – backed by conservative lobbyists – preempted the vote by passing legislation to block any wage law enacted by the city, leaving the poorest citizens making the \$5.15 per hour federal wage.<sup>55</sup> ALEC has played a critical role in spreading similar legislation to states across the country ranging from Oregon to South Carolina

**Blocking Living Wage Laws:** With the successful preemption of local minimum wage laws in many states, ALEC has set its sights on overturning even the more limited “living wage” laws that require contractors doing business with cities or counties to pay a decent wage. When Miami-Dade passed a living wage law that extended its local wage minimums to contractors at the local airport, Florida enacted a law that overturned the part of the local ordinance raising the wages of airport personnel.<sup>56</sup>

Even more dramatically, when Atlanta passed a similar living wage law extending its coverage to its airport, the airlines got ALEC legislators to push through legislation overturning not only the living wage for airline employees but for any contractor doing business with the city of Atlanta. Declared ALEC’s Earl Ehrhart, the bill’s sponsor, “I’ve been waiting 17 years to pass some good conservative legislation” as he blocked all cities in Georgia from giving any preference to higher-wage contractors over sweatshops bidding to provide public services.<sup>57</sup>



**Preempting Other Labor Legislation:** In addition to its bills blocking local minimum and living wage laws, ALEC promotes a “Labor Peace Agreement Preemption Act” which aims to block any local government from promoting pro-union city contractors and a “Prevailing Wage Repeal Act” to end wage standards for public construction and transfer the work to low-wage contractors.

While ALEC styles its anti-wage-standards position as “pro-business,” it’s worth emphasizing that the organization represents only the low-wage contractors in industry, ignoring the over 24,000 high-wage business members of the Campaign for Quality Construction who support living and prevailing wage laws as the best way to provide a decent life for their employees and promote the “highest quality and safest work product” in public works and services.<sup>58</sup> By undercutting these high-wage employers, ALEC-style policies hurt the decent businesses in our communities.

## TELECOMS: BLOCKING MUNICIPAL BROADBAND AT EXPENSE OF HIGH TECH

In August 2005, ALEC honored Wisconsin State Representative Phil Montgomery with its “Legislator of the Year” award for his Wisconsin legislative efforts against local government plans for municipally-owned broadband networks and his role in ALEC in taking the campaign national.<sup>59</sup> This campaign both reflects ALEC’s effective representation of its own corporate telecom clients, and the way it serves that narrow if powerful economic base at the expense of the broader economic interest.

**Rolling Back Local Action:** Across the country, ALEC has helped draft state legislation to block or hamstring cities that sought to bypass high-cost telecom services in favor of building cheaper or even free Internet services for their residents.<sup>60</sup> ALEC’s research ally, the Heartland Institute, has been particularly obsessed with the issue, churning out multiple research attacks on the proposed municipal networks.<sup>61</sup>

By June 2005, lobbying by ALEC and its telecom company backers had pushed through legislation in Arkansas, Florida, Minnesota, Missouri, Nebraska, Nevada, Pennsylvania, Tennessee, Texas, Utah, Virginia, and Washington State to limit municipal broadband networks.<sup>62</sup>

**High Tech Industry Opposition to ALEC:** However, many other companies in the high tech industry, worried that the United States has dropped to 13<sup>th</sup> place in global rankings of broadband Internet usage<sup>63</sup>, have come out against the ALEC state preemption bills. The 12,000 member High Tech Broadband Coalition (HTBC), representing electronics and software companies, has argued that local governments “may identify broadband needs that are best met through some form of governmental action or partnership with the private sector” and, not incidentally, expand the customer base for use of the high tech products sold by the HTBC coalition.<sup>64</sup> Like many conservative campaigns, ALEC’s fronting for short-term telecom profits is undermining a much broader set of economic interests in our society.

**The Enron Precedent:** This division between deep-pocketed corporate actors versus broader business interests has been chronic in the history of the conservative movement and ALEC’s own history. In an internally notorious battle, back in the 1996 at the behest of Enron and Koch Industries, ALEC adopted model legislation to deregulate the \$220 billion electricity industry. In response, investor-owned utilities and their trade association Edison Electric Institute (EEI) walked out denouncing the policy and renounced their ALEC memberships. “It’s a situation where you buy a seat at the table and then you have the opportunity to vote and drive policy,” EEI’s Tim Kichline told a reporter at the time. “We don’t have enough votes.” The electric utilities didn’t buy enough votes, so they lost out on policy, whatever the public interest.

The following year Enron's Ken Lay would keynote ALEC's national convention and help fund a massive conservative lobbying campaign to open up states like California to his company's predatory maneuvers in the industry.<sup>65</sup>

The economic debacle that followed is what's to be expected when groups like ALEC help clothe narrow corporate interests, whether Enron opening up the electricity industry or the telecoms battling municipal broadband, with a false sheen of public-spiritedness.

## HELPING INSURANCE COMPANIES FIGHT OFF CORPORATE ACCOUNTABILITY

That ALEC and its corporate supporters have not changed a bit of their rightwing views due to the Enron disaster is a given, but the saddest fact is that they can get away with supporting similar campaigns without the media mocking them.

**Fronting for the Insurance Companies:** In Fall 2005, ALEC announced a new campaign to stop state insurance commissioners from requiring insurance companies to meet the same accountability and auditing rules as were imposed on publicly-traded corporations in the wake of the Enron debacle. Following the lead of the National Association of Mutual Insurance Companies (NAMIC), ALEC came out against proposals that executives at privately-held and mutual insurance companies should be held personally liable for the information reported on financial disclosure forms, key reforms embodied in the federal Sarbanes-Oxley rules for public corporations.<sup>66</sup>

**Slamming State Insurance Commissioners:** ALEC rushed to parrot NAMIC's position in a white paper, calling fraud prevention a "regulatory fix in search of a real-world problem" and attacking the National Association of Insurance Commissioners (NAIC), which is promoting the reforms, as a "bureaucratic colossus" that "thrives on regulation and the power it bestows,"<sup>67</sup> the same anti-regulatory cant it used to attack electricity regulation in the 1990s and any financial accountability for its patron companies.

With exquisite lack of irony, the ALEC analysis darkly condemns NAIC for trying to "[influence] the course of insurance regulation by regularly churning out models laws," a nice Orwellian piece of rhetoric to delegitimize model legislation proposed by democratically elected and appointed insurance commissioners in favor of ALEC's corporate versions.

## THE BANKERS PAYOFF FROM LONG TERM HEALTH CARE "REFORM"

Sometimes you look at an ALEC campaign and may be puzzled for a second about which corporate interest is benefiting. But keep looking—it's always there. A case in point is a recent campaign by ALEC and other conservative groups to crack down on seniors who shelter income in a home while using Medicaid to finance long term care.

**Draining Middle Class Assets:** Usually you hear conservatives extolling the virtues of families preserving assets to pass onto the next generation, but here you had ALEC's Jim Frogue calling for the taxman to grab old folks' homes: "No one wants to turn over a \$500,000 house to the state of Florida, but if you have one, should you be allowed to get into the taxpayer-funded program?" It's not that these seniors are doing anything wrong; the Medicaid law has traditionally allowed seniors of modest means to preserve their homes. But conservatives are pushing for the rules to change.<sup>68</sup>

***"Sometimes you look at an ALEC campaign and may be puzzled for a second about which corporate interest is benefiting. But keep looking—it's always there."***



**A Banking Industry Business Opportunity:** The clue to what this is all about is in the report ALEC co-wrote with the conservative Council for Affordable Health Insurance, where they highlighted statistics showing that 81% of seniors own their homes with \$2 trillion in assets potentially available. And the kicker is the report's recommendation that Medicaid require that all seniors convert that equity into a "reverse annuity mortgage", a little-used financial instrument that pays out income until death but gives ownership of the home to a financial firm.<sup>69</sup>

So ALEC's campaign is really just about creating a new business strategy for the financial services industry, a fact underscored by the *American Banking Association Journal*, which wrote up ALEC's proposal with the simple headline: "Is Medicaid conundrum an opportunity for banks?"<sup>70</sup> And of course moving senior nest eggs back into the financial casino is a wonderful profit-making opportunity for them.

**Following the Golden Rule:** Using "reform" campaigns to create whole new business niches for corporate supporters has long been a key strategy at ALEC, one of the prime examples being the conservative campaign to create "Medical Savings Accounts" (MSAs), extremely high-deductible, tax-privileged health care accounts that primarily benefit healthy and wealthy people.

But the advantages of the policies were not just that they benefited ALEC's favorite economic demographic—it's that the prime seller of the policies back in the 1990s was a little known company called Golden Rule Insurance, whose representative just happened to sit on ALEC's Board of Directors (along with the boards of other conservative organizations) and bankrolled the conservative campaign for MSAs.<sup>71</sup>

This is ultimately one of the core payoffs of corporations harnessing public interest fronts like ALEC. Whole public-sounding campaigns like "saving Medicaid money" or "expanding health care options" can mask hucksterism for new financial products like reverse mortgages and MSAs.

# The ALEC Strategy: Structural Assault on Progressive Power

If the rightwing movement in the states amounted to only a series of individual profit-driven campaigns, however, the threat from ALEC would be merely as a slick, well-funded public relations operation, albeit a nasty and effective one.

But the real danger from ALEC and its associated organizations comes from the fact that they are a collaboration between hundreds of the richest and most predatory corporations in the country. That coordinated approach encourages strategies to structurally undermine the very capacities of government that restrain corporate power and fuel campaigns that fracture progressive alliances and political power.

The goal is to dismantle every lever of progressive power: limit state taxing powers, shut the court room door, dismantle state regulatory options, privatize public services, end state control of pension capital, defund the revenue sources for progressive politics, and use a rigid version of "federalism" and local home rule to limit all levels of government power.

By operating at the state level, outside the glare of media attention and full political focus by progressives, it's a bit like the rightwing is tunneling underground; by the time the ground gives away, it'll be too late to save the house.

## LIMITING STATE AND LOCAL TAX POWERS

Grover Norquist, head of Americans for Tax Reform (ATR) and arguably the premiere rightwing strategist, has described the conservative goal as cutting government "down to the size where we can drown it in the bathtub."<sup>72</sup> And key to that result is cutting tax revenues and making it politically impossible to fund social needs through government action. This strategy serves not just to limit progressive policy but, by creating a limited pool of funds, pits different progressive groups against each other in fighting for resources and helps fracture progressive political coalitions.

**Supply Side Propaganda:** ALEC and allied organizations like Americans for Prosperity feed this tax cutting goal through a steady stream of reports arguing that state governments that raise taxes doom economic growth. When South Carolina Governor Mark Sanford began pushing for cuts in the state's personal income tax, he pointed to ALEC's studies as justification.<sup>73</sup> And in Virginia, when Mark Warner and a coalition of Democrats and Republicans were pushing for new revenue to close a budget gap, the conservative Speaker of the Virginia House of Delegates, William Howell also cited ALEC studies in fighting needed revenue increases.<sup>74</sup>

Similarly, even as the organization promotes raiding the home assets of middle income retirees to fund the long-term health care costs of Medicaid, ALEC promotes the fiction that estate taxes on the wealthy harm the economy by forcing family businesses or farms to be sold and vigorously attacks proposals to increase estate taxes at the state level<sup>75</sup> and has lent its voice to support permanent repeal of the federal estate tax.<sup>76</sup>

**State Constitutional Tax Limits:** Since Proposition 13 in California, the conservative movement has worked to constitutionally limit how much revenue states and governments can raise. The results are situations like California in 2003, where a handful of Republican legislators were able to block budget bills supported by a majority of legislators due to a two-thirds constitutional requirement for tax increases—a crisis that conservatives used to recall Gray Davis from office and elect Arnold Schwarzenegger to office. Sixteen states have similar supermajority requirement for tax increases, either by statute or locked in under their constitutions, with conservatives organizing to impose them in additional states.<sup>77</sup>

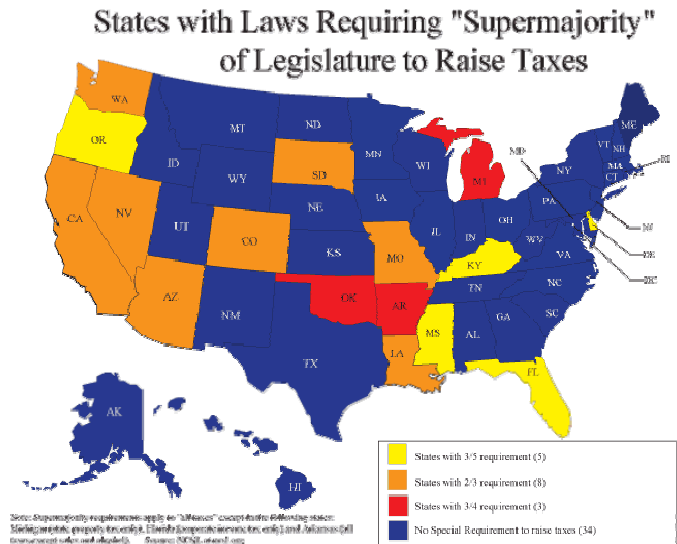
The newest tax-cutting innovation pushed by the rightwing is the so-called Taxpayer Bill Of Rights (TABOR), an approach adopted at the ballot in Colorado in 1992, which completely blocks any revenue increases above adjustments for inflation and growth in the population. Even if growth pushes up revenues above that amount, taxes are automatically cut to the TABOR level. In the words of Ramesh Ponnuru of the conservative *National Review*, "TABOR is a government-shrinking device...as the state economy grows the state government should, over time, make up a smaller and smaller proportion of it."<sup>78</sup>

ALEC has been pushing states across the country to adopt TABOR laws or constitutional amendments.<sup>79</sup> One vicious aspect of Colorado's TABOR rules were that if revenues fell due to recession, revenues could only increase the next year compared to the artificially ratcheted down recession level of revenues—resulting in complete budgetary meltdown in Colorado in 2005 and even the conservative GOP Governor supported an initiative to suspend and modify the TABOR rules in the state. Despite this Colorado setback, ALEC is now promoting modified TABOR legislation, particularly in Ohio, Oregon and Wisconsin, that they claim is "improved" and lacks the ratchet feature.<sup>80</sup>

**Blocking Federal Bailouts:** During the recent recession, ALEC mounted a major mobilization to block federal budgetary help for the states, the only state-based policy group to oppose such help. Supplementing a research report that argued against federal help in favor of forcing the state's on a recession-induced "fiscal diet,"<sup>81</sup> dozens of ALEC legislators signed onto an ALEC-drafted letter to urge Congress not to help the states.<sup>82</sup>

Repeatedly, when the feds have modified programs to cut spending help for the states, as when the new Medicare prescription drug program billed states for help given to seniors previously receiving Medicaid, ALEC has supported such federal moves in the name of forcing more cuts on the state budgets.<sup>83</sup>

**Federal Preemption of State Tax Powers:** The hypocrisy of ALEC's "states rights" stance is nowhere more apparent than in its support for multiple federal laws that squash state taxing powers. Repeatedly, ALEC has supported Congressional legislation to block states from taxing Internet access<sup>84</sup> and helped block reforms to make it easier for states to collect sales taxes on Internet commerce.<sup>85</sup> The upshot of the ALEC position is that multi-billion dollar Internet companies get to sell untaxed goods, leaving the tax burden on local retailers put at a competitive disadvantage.



Graphic Source: The Heartland Institute

ALEC has also supported federal laws to restrict states' ability to fairly tax corporations doing business in their states – legislation that would allow corporations to setup tax shelter schemes to shift profits to low or no-tax jurisdictions and costs states \$6.6 billion annually.<sup>86</sup> But even as groups like the National Governors Association campaigned against the bill in 2005, ALEC chairman Earl Ehrhart was advocating using federal power to "curb the growing appetites of state tax collectors and appropriators."<sup>87</sup>

## LITIGATION "REFORM": SHUTTING THE COURTROOM DOOR

The frenzy of corporate lobbying around litigation legislation can be explained by a simple fact: for corporations, a jury is in many ways the most fearsome entity they may face. It is about the only institution corporations can't legally bribe, where average Americans have the power to judge a corporation's actions and hold it responsible.

This explains why almost every piece of litigation-related legislation supported by ALEC -- and its conservative kin -- is aimed at diminishing or even eliminating jury power to make such decisions. Backed by the US Chamber of Commerce, the business-backed American Tort Reform Association and other corporate backers, ALEC has been promoting a wide-ranging assault on use of the courts to hold corporations accountable.<sup>88</sup> And while the headline is shutting down personal injury lawsuits, the changes conservatives are making in the courts are weakening the right to a trial for plaintiffs in employment and consumer lawsuits as well.

**Making Up Stories:** The attack on juries has been fueled by urban legends of reckless jury awards -- stories fed to a credulous media through tens of millions of dollars spent by business groups. As a recent *Los Angeles Times* article noted, "These fables have...been widely disseminated by columnists and pundits who, in their haste to expose the gullibility of juries, did not verify the stories and were taken in themselves." In fact, the number of personal injury lawsuits and the amount average amount awarded have been falling for years.<sup>89</sup>

But the propaganda value is that ALEC and other groups can play up these fictional awards and claim they add a "tort tax" on the order of almost \$1000 per year per person each year to the goods and services they buy—all backed with "evidence" from the echo chamber of rightwing lobbying, magazines, and policy reports.<sup>90</sup>

***"These [legal] fables have...been widely disseminated by columnists and pundits who, in their haste to expose the gullibility of juries, did not verify the stories and were taken in themselves."  
--LA Times***

**The Medical Tort Reform Diversion:** The poster child for ALEC's campaign in the states has been the "crisis" in medical lawsuits, which in the words of ALEC's Civil Justice Task Force Director, Kristin Armshaw, "has flooded the United States and threatened access to healthcare,"<sup>91</sup> a savvy rhetorical shift of the debate from the failure of employers and governments to fund adequate coverage to blaming the trial lawyers for the inadequacies of our health care system.

And doctors are more sympathetic "defendants" to put on camera than the usual corporate polluters or defective product makers, so highlighting medical lawsuits has been used as a wedge to push through more comprehensive litigation legislation. While medical malpractice was "almost the sole focus of the media coverage" of Georgia's legislative debate, one defense firm emphasized to its clients the enactment of "provisions that substantially alter Georgia law in cases beyond that limited field."<sup>92</sup>

**Ending Jury Control of Damage Awards:** Knowing that most victims never make it to the court room, jury members have long used large damage awards as a means to prevent defendants from thinking they can pay off a few victims and still make a profit from their misdeeds. By limiting jury power to award anything more than limited damages, ALEC-style legislation can essentially remove juries as a weapon to discipline corporate behavior.

ALEC and allied "tort reform" advocates have helped enact laws that prevent juries from awarding extensive "non-economic damages" – such as for the mental anguish of being disabled for life – or punitive damages meant to punish companies for reckless or venal actions. A whole range of subtler changes in legal doctrine have limited corporate exposure for wrong-doing or allowed them to use corporate shell games to offload responsibility on bankrupt subsidiaries or spin-offs.

**Excluding Evidence of Corporate Wrongdoing:** Under ALEC-supported laws, judges have increasingly been given the right to exclude evidence of corporate wrongdoing by limiting plaintiff witnesses in the name of banning so-called "junk science", with the judge not the jury getting to decide which witnesses are credible. The recent Georgia law emphasizes the pro-corporate bias of such rules by blocking such evidence only in civil trials, while allowing prosecutors in criminal trials to use whatever evidence they want -- a clause that even conservative scholar Daniel Bernstein admits reinforces the evidence that "advocates for stricter standards for admissibility of expert evidence are mere skills for corporate defendants."<sup>93</sup>

**Changing the Composition of Juries:** Instead of paying all members of the jury the same amount, states like Arizona have enacted a reverse Robin Hood law, designed by ALEC, that limits exemptions from jury service and pays wealthier jurors as much as \$300 per day-- while paying lower-income jurors only \$40 per day.<sup>94</sup> Variations on such "Jury Patriotism Acts" – already passed in at least 13 states – create friendlier juries for corporate defendants with the added bonus that the payments to wealthy jurors are funded by significantly increasing filing fees and discouraging lawsuits by poorer plaintiffs.<sup>95</sup>

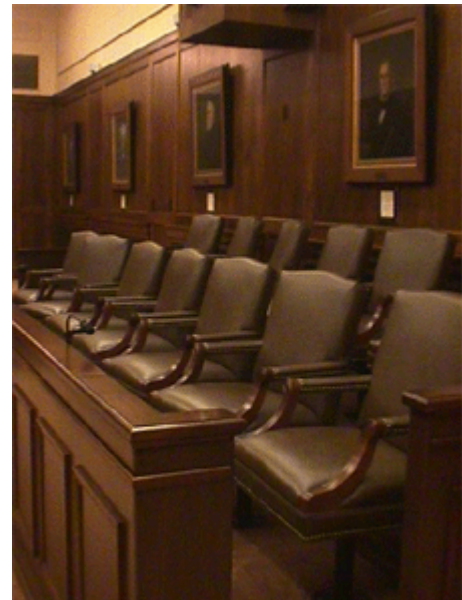
As part of this strategy, ALEC has also been lobbying in places like Missouri to merge the jury pools from suburbs, considered friendlier to corporate defendants, into the court systems of cities such as St. Louis where most lawsuits are filed and where urban juries are more supportive of plaintiffs.<sup>96</sup>

**Scaring Plaintiffs Away from the Courtroom:** One nasty ALEC-promoted law is called the Offer of Settlement Act, passed in a number of states, where plaintiffs who are offered any low-ball offer automatically become liable for paying corporate legal fees if they aren't awarded significantly more than the offer.<sup>97</sup> Poor plaintiffs faced with potential bankruptcy even if they win their case are then pushed into accepting the cheap settlements out of fear.

Forcing settlement has the additional advantage for corporations that most settlement agreements are secret and don't alert other victims or regulatory authorities to the dangers of the defendants' actions, unlike court cases where evidence presented is public and helps strengthen political mobilization to rein in corporate abuses.<sup>98</sup>

**Limiting Class Actions:** Along with strengthening corporations' ability to use delay and intimidation tactics to fend off individual lawsuits, conservatives have also promoted a series of other laws to limit the even higher-stakes class action lawsuits.

The main goal, on top of more general procedural roadblocks, is to divide lawsuits into multiple states and as many different groups of plaintiffs as possible to prevent the pooling of resources and evidence among all employees, consumers or other victims of a corporation's actions. This attack was reinforced in 2005 by the federal "Class Action Fairness Act" to move more multi-state class action cases into federal courts<sup>99</sup>, creating a further incentive for plaintiffs to divide their cases between different states.



The end result of this whole campaign is to make it nearly impossible for poor plaintiffs to get a day in court or prevent a judge from overturning any judgment in their favor. In most cases, they'll settle for pennies on the dollar in a settlement that will hide corporate abuses from the public under the seal of a confidentiality agreement.

## GUTTING STATE REGULATORY POWERS

Along with disabling the civil justice system, conservatives aim to shut down the enforcement of business regulations across the states.

**Restricting Power and Flexibility of Attorneys General:** In recent years, state attorneys general have mounted wide-ranging campaigns to rein in illegal actions by tobacco companies, Microsoft, Wal-Mart and a range of other corporations. Announcing the "serious threat posed by activist state attorneys general", the US Chamber of Commerce in 2005 released a report, *Government by Indictment*, part of the full-scale offensive by ALEC and associated groups against the powers of state AGs.<sup>100</sup>

A primary demand by the Chamber's report was a call to enact ALEC bills designed to restrict AGs' ability to hire private firms on contingency fees to help them enforce the law. Because attorney general offices are often poorly funded, restricting their ability to hire such private firms could cripple enforcement efforts.<sup>101</sup>

**Blocking Citizen Lawsuits:** Recognizing the limited funding of state agencies and attorneys general offices, many state statutes – especially in the environmental field -- have traditionally given members of the public the right to mount preventive enforcement lawsuits in the shoes of the government, what are often referred to as "citizen suits" or "private attorney general lawsuits".<sup>102</sup>

The rightwing has been working to undermine such statutes, both by pushing for the appointment of judges who will limit who can bring such suits and repealing such laws altogether. California, for example, has seen a double attack on such laws in the last two years. One of the first acts of Arnold Schwarzenegger's administration was forcing through restrictions on the state labor code's Private Attorney General Act, which had given advocates greater power to enforce the state's labor laws.<sup>103</sup> And corporations were able to pass a 2004 ballot initiative to rollback the state's Unfair Business Practices Act; "The oil and tobacco companies bought themselves a loophole," in the words of Sierra Club's Bill Magavern by blocking any citizen lawsuit, even for clear violations of the law, until after it's too late and consumers or the environment have already been harmed.<sup>104</sup>



**Promoting Business "Self-Regulation" and Secrecy:** Instead of government or citizen enforcement, ALEC and its allies have been promoting bills like Colorado's Environmental Audit Privilege and Immunity law, which allow companies to "police themselves" and keep violations secret if they correct them. The Colorado law was backed by ALEC and the Coors Company – a big ALEC funder – after the company was forced to reduce smog-forming compounds from one its breweries and pay a \$237,000 fine.<sup>105</sup> In 2001, Kentucky and Oregon passed audit-privilege laws like the one drawn up by ALEC and variations on the law have been passed in other states.<sup>106</sup>

**Crippling Agency Budgets with "Cost-Benefit" Analysis:** One key approach for ALEC's legislative allies is to require that agencies prepare costly "economic impact statements" before any regulation can be proposed, a mandate that can cripple regulatory agencies starved for adequate funding.<sup>107</sup> As mentioned earlier, conservative groups have made attaching such mandates to state global warming legislation a key priority.

ALEC has been especially successful in promoting a "Small Business Regulatory Fairness" version of this mandate that not only requires special economic analysis of how regulations might impact small business but encouraging exemptions from regulations for those businesses, an idea quite sellable as encouraging "entrepreneurialism" but often meaning that small sweatshops will be left unregulated. Connecticut, Kentucky, Missouri, Rhode Island, South Carolina, South Dakota, and Wisconsin have all passed versions of this legislation.<sup>108</sup>

**Deregulating Industries:** The mother lode for rightwing activists is to remove state and local regulation of key industries like insurance, telecoms, cable, and electricity. Despite the debacle of Enron and California's blackouts due to deregulation efforts in California, conservatives are still pushing forward on electricity deregulation in many states, despite skyrocketing electricity rates in states that have deregulated prices.<sup>109</sup> In states like South Carolina, ALEC almost succeeded pushing through a law that would have completely eliminated rate regulation for home and auto insurance policies.<sup>110</sup>

But in state after state, the largest battles in recent years have been over telecom deregulation. The suppression of municipal broadband programs is just part of a larger fight to end all state and local regulations and franchise agreements. Rate regulations have been eliminated and local governments prohibited from conditioning cable franchise agreements on providing particular services to their communities. As a speaker said at ALEC's 2004 Seattle meeting, "We start...with a premise. Frankly, that premise is really very simple, some would say radical, we would say bold. That is, nothing in telecommunications should be regulated, period."<sup>111</sup> This pretty much summarizes the whole conservative approach to all regulations protecting consumers.

**"Property Rights" to Shut Down Economic & Environmental Regulation:** In the rhetoric of the rightwing, any regulation that interferes with the profits of landowners is an illegal "takings" of their property. ALEC has been pushing legislation to require governments to compensate property owners for any lost profits on land sales from any regulation, a requirement that would give most local governments the choice of bankrupting their budgets or repealing most planning and environmental regulation of land use.<sup>112</sup>



In the November 2004 ballot, the rightwing scored their first national success with Measure 37 which embodied the ALEC approach and sought to target Oregon's successful sprawl management policies. Conservatives in Washington State are already mobilizing to run a similar measure on the state ballot and conservative legislators have introduced similar bills in Colorado, Maine, Wisconsin, New Mexico and Montana.<sup>113</sup> While the Oregon initiative has been suspended by the courts, the political momentum of its passage has strengthened land use deregulation efforts around the country.

## PRIVATIZATION- UNDERMINING UNIONS AND PUBLIC ACCOUNTABILITY

For the corporate right, privatization of government services is both a way to undermine labor standards for those activities and open up new venues for corporate profit-taking. And the conservative-induced budget crises in many states have just helped this process along. When budget crises hit in the last few years, ALEC co-wrote a report with the Manhattan Institute that made privatization a key solution for balancing state budgets.<sup>114</sup> But privatization actually serves multiple conservative goals, from undermining public employee unions to opening up government programs to religious fundamentalist allies to rewarding political contributors who fund the whole rightwing electoral machine.

**Medicaid Privatization:** ALEC goal with Medicaid is clear: the elimination of government guaranteed benefits in favor of a system run by private insurance companies. "The goal of Medicaid should be to return as many people as possible to the private market," argues Christie Raniszewski Herrera, ALEC's health and human services task force director. "Medicaid should be overhauled from a defined benefits structure to a defined contribution structure," meaning a system where the poor aren't guaranteed health coverage, just a certain number of dollars to pay out to private insurance companies.<sup>115</sup>

South Carolina conservatives are pushing a plan similar to Medical Savings Accounts, where individuals would pay for health services on a fee-for-service structure until they run out of money in the account—an issue that would leave those with acute illnesses out of luck if they exhausted their accounts.<sup>116</sup> Yet while ALEC has fought hard for the federal government to allow innovation in conservative directions, they have opposed flexibility for states like Maine who want to expand coverage for the working uninsured.<sup>117</sup>

One campaign tied to the privatization push is ending the federal system where the government matches Medicaid dollars spent by the states. "The way Medicaid is structured," complains Jim Frogue, ALEC's health policy analyst, "it's an open-ended entitlement for states,"<sup>118</sup> which to ALEC's dismay has encouraged states to spend more on health care for the poor, rather than less as conservatives would prefer.<sup>119</sup> ALEC is advocating at the federal level for a block grant system where states would have a stronger incentive to cut back benefits.

**School Vouchers:** One of the top goals of the conservative movement has been privatization of public education, a program that pleases religious conservative allies, opens up schools to corporate profiteering and undermines the teachers unions. Ohio conservatives have pioneered the most extensive system of vouchers, expanding an initial system based in Cleveland to become a statewide system in 2005.<sup>120</sup>

While other states are also pushing to create full voucher systems, ALEC has also been promoting a subtler privatization plan based on "virtual schools" combined with home schooling. Mississippi's governor is promoting a bill based on the ALEC model where parents would receive tax credits for their students to "attend" the virtual school. Colorado already has a wide range of virtual schools operating in various districts around the state, and many "charter school" programs around the country include virtual schools as a component.<sup>121</sup>

Even in more liberal states like New York, conservatives are circling expanded charter schools with the goal of using them as leverage to eliminate teachers unions. The Atlantic Foundation held a November 2005 conference for charter school leaders with lawyers from the anti-union Jackson Lewis law firm explaining to attendees how to bring private sector union busting tactics to public charter schools. Or as one leader of a charter school company declared, "good charter schools organize themselves in ways that keep unions out."<sup>122</sup>

**Prison Privatization:** For two decades, ALEC has been a driving force in lobbying for legislation to hand over prisons to corporate management, with 95,000 inmates in at least 31 states or 6.5% of all prisoners in private prisons, two-thirds of them in prisons run by Corrections Corporation of America (CCA), one of ALEC's leading corporate sponsors. Seven states place more than one-fifth of their prison population in corporate-run prisons.<sup>123</sup>

A 2000 report by the Western States Center, "The Prison Payoff: The Role of Politics and Private Prisons in the Incarceration Boom," traced the rise of private prisons to "tough on crime" legislation sponsored by ALEC and its allies that extended sentences and pushed prison populations beyond the capacities of existing state facilities.<sup>124</sup>

And conservatives who pushed budget-busting sentencing laws then turned around and blamed guard salaries for the resulting funding crisis. With tight fiscal budgets, privatization was sold as the solution. State prison guards, who had often supported many of the tougher sentencing laws, have found their jobs disappearing to privatization through this two-step process. In Wisconsin, for example, more than 3000 inmates are sent out of state to CCA facilities, leaving the remaining state guards in overcrowded prisons subject to riots and other threats.<sup>125</sup>

Name the area of government and conservatives are seeking to hand its operations over to corporate allies who, in turn, can eliminate labor unions from public services and use the profits to fund more campaign contributions to their political machine.

## DISMANTLING PUBLIC EMPLOYEE PENSIONS

When Arnold Schwarzenegger made an attack on the state employee pension funds a centerpiece of his California "reform" campaign in 2005, he was just following the lead of ALEC and other conservatives who have made dismantling state pension systems one of their top priorities.

**The Rightwing Campaign:** Conservatives are far more focused than progressives on the ways that \$2.7 trillion in capital sitting in public employee pension funds across the country can radically reshape labor markets and effect major changes in corporate priorities through their investing policies. In response to that threat, ALEC and allies like Americans for Tax Reform and Club for Growth have launched a far ranging campaign to dismantle current pension systems controlled by state officials and worker representatives in favor of 401(k)-style individual accounts managed by the financial services industry.

Along with California, legislators in Georgia, Illinois, Iowa, Kansas, Maine, Maryland, New Hampshire, New Mexico, Oklahoma, and Virginia are pushing to follow Schwarzenegger's lead.<sup>126</sup> And Alaska actually passed legislation in 2005 ending guaranteed pensions for all newly hired state employees in favor of individual accounts.<sup>127</sup>

**Undermining Public Employee Unions:** The most obvious goal is to cut benefits for union workers by ending guaranteed benefits -- with exactly the same rhetoric of "choice" being used to sell privatizing social security at the federal level. Slashed benefits can be obscured through rosy calculations of supposed stock market returns.

More subtly, ending defined benefits is a way to dismantle the career ladders that create both job stability and worker loyalty to the unions that help provide that security. Heritage Foundation's Frederick Hess promotes ALEC's pension "reform" proposals in *Policy Review* by arguing that, because defined benefits reward long-term loyalty to professions like teaching, they are "hostile to entrepreneurs" working to create privatized schools and services. Because teachers want to keep their right to the union pension, they are "hesitant to consider positions in other districts, charter schools, or new start-ups."<sup>128</sup> i.e. Traditional pensions strengthen loyalty to and solidarity among teachers and other public employees, while private accounts will import "every man for themselves" job-changing and lack of job security into public employment and encourage privatization.

**Ending Corporate Accountability by Pension Trustees:** But what really enrages conservatives are decisions by trustees of these pension funds to use their shareholder voting power to challenge corporate abuses, from pension funds in Ohio, New York and California voting to divest in firms involved in privatization<sup>129</sup> to demanding that corporate America formally account for the likely long-term costs of global warming, a campaign that particularly enrages conservative organizations bankrolled by polluters and oil companies.

The American Enterprise Institute's economic-policy director has denounced CalPERS -- the giant California Public Employees' Retirement System -- for in his words, "abusing the public trust in a manner as serious and grave as any I have seen" where they "strong-arm changes in targeted companies."<sup>130</sup> Unsurprisingly, ALEC was particularly outraged when public employee pension funds disinvested in their tobacco patrons as punishment for the companies' failure to reach a quick settlement on youth smoking.<sup>131</sup>

Nothing offends the corporate elite more than that representatives of average Americans might be able to challenge them in their own corporate boardrooms. And the best way to eliminate that voice in corporate governance

decisions is to disperse pension funds into millions of individual accounts managed by Wall Street firms that wouldn't dream of contradicting management decisions.

**Eliminating Pension Investments in Housing and Other Social Needs:** Conservatives also denounce social investments, often called Economically Targeted Investments (ETIs), by pension funds to encourage new affordable housing,<sup>132</sup> promote job growth in local companies,<sup>133</sup> or seeking, in the words of CalPERS investment policy, "investment opportunities in traditionally underserved markets [such as] urban and rural areas" needing revitalization.<sup>134</sup> Pension funds potentially provide state governments with literally trillions of dollars to promote growth and investment in areas neglected by Wall Street, all outside the budgetary straightjackets conservatives have worked to impose on tax-related spending.

In its policy briefs, ALEC has made it clear that one key goal of privatizing public pensions is to end what it calls "investments driven by political considerations," such as promoting state business development or other social investments.<sup>135</sup>

And there is, of course, the direct payoff to the financial services firms who will end up administering the millions of private accounts in a privatized state pension system and collect the billions of dollars in fees.

## USING STATE LAW TO DEFUND THE LEFT

Since the early Reagan era, the conservative movement has sought to use control of government to cut off the sources of funding for progressive politics. The idea is to destroy the funding base of the opposition and leave corporations – and a few of its religious conservative allies -- as the only forces with significant resources in politics.

**Shifting Government Resources to Conservative Allies:** Privatization is one large part of this funding strategy--rewarding corporations with fat, high-profit government contracts who in turn support conservative causes, while taking the resources away from public employees who pay union dues. "Gag rules" or "abstinence only" rules on family planning funds cut off funding to organizations like Planned Parenthood, the goal for example of Texas legislation in 2003 that reserved family planning dollars, including those from the federal government, exclusively for healthcare providers that do not offer abortion services or referrals.<sup>136</sup> More generally, the push for "faith based initiatives" has the effect of shifting resources from non-profits embedded in social justice networks to conservative organizations engaged in active conservative politics.<sup>137</sup>

**Cutting off Union Dues:** "Right to Work" campaigns were the original conservative campaign to use state laws to cut off union dues, one of the primary sources of political funds that oppose conservatives day-in and day-out. The present round of attacks goes under the label of "paycheck protection" – a nice sounding term for crippling union workers' ability to fund politics. Under federal law, union members are always free to get refunds of dues spent on politics, but "paycheck deception" laws -- enacted in a few states and pushed (unsuccessfully) on the ballot in California in 1998 and 2005 -- force workers to fill out forms each year to allow dues to be used for politics. This creates a massive yearly bureaucratic expense for the unions that eats away much of the funds collected. And of course corporations continue to spend money on politics without having to ask individual shareholders for permission, or even give them refunds.

The newest ALEC bills would completely prohibit political funds from being collected through monthly deductions from paychecks. The power of unions is that workers can efficiently contribute a buck or two a month to have their voice heard, but without paycheck deductions, the fundraising costs for such small sums becomes prohibitive. After Utah passed such an ALEC-backed law in 2001, the Utah Education Association saw an 85% drop in funding for its political work.<sup>138</sup>

**Slashing Trial Lawyer Fees:** The whole rightwing attack on the civil justice system also has the effect of cutting the fees for employment and other trial lawyers, who have been strong sources of political funding for progressive causes. Passing tort reforms nationally, Grover Norquist argued back in 1999, takes "a \$5-10 billion a year bite out of trial lawyer fees" and shuts down the progressive "get-out-the-vote effort, funded with money from trial lawyers."<sup>139</sup> The limits discussed earlier on State Attorneys General hiring outside counsels for enforcement efforts are another part of this conservative defunding of trial lawyers.

Additionally, conservatives are pushing to enact limits on contingency fee arrangements in private lawsuits, both to deter lawsuits by making them too risky financially for lawyers to accept and to cut off the total fees collected. For example, a recent RAND report estimated that limits on contingency fees in medical malpractice lawsuits in California reduced trial lawyer fees by 60%.<sup>140</sup> In Florida, a limit on contingency fees was passed on the 2004 ballot.<sup>141</sup>

***"The definitional sections of this [ALEC-written ecoterrorism] legislation are so broad that they sweep within them basically every environmental and animal-rights organization in the country."  
--Michael Ratner, Center for Constitutional Rights***

The corporate right is using political threats against contingency fees to silence trial lawyers in other political areas. In 2005, the pharmaceutical industry threatened to commit millions of dollars to pass a California state ballot initiative to even more tightly limit contingency fees and only withdrew the initiative after the trial lawyers agreed not to contribute funds to oppose two other initiatives PhRMA was promoting on the ballot.<sup>142</sup>

**Chilling Environmental Contributions:** Conservatives have a two-fold strategy to undercut funding for the environmental movement: promote happy talk on environmental success to undercut public support and promote "ecoterrorism" legislation to chill activist organizations. Sandy Libby Bourne, ALEC's environmental point person, is forthcoming that all the propaganda by the Right is designed partially to cut off that funding. Convince the public that there are no serious environmental problems and "It's not unreasonable to assume many of these individuals might take their activism – and their dollars – elsewhere."<sup>143</sup>

The flipside of the happy environmental talk are dark warnings about the dangers of "ecoterrorism" and the need to pass ALEC-designed legislation to criminalize a range of legitimate environmental activism—and make contributing to groups engaged in such activism illegal, provisions that could chill contributions for a range of organizations. Michael Ratner of the Center for Constitutional Rights has explained, "The definitional sections of this legislation are so broad that they sweep within them basically every environmental and animal-rights organization in the country."<sup>144</sup> Oklahoma, California, Utah and Colorado have already passed versions of these laws and other states are moving forward with them.<sup>145</sup>

**Defunding Labor Centers:** One other attack on the labor movement involves a chill against academic freedom as well. Shiny business schools at almost every major university in the country attest to the power of business in getting its priorities funded on campus, but conservatives are not even willing to allow the handful of labor centers that are scattered across the country to survive.

In California, Schwarzenegger vetoed only one line item in the whole University of California budget—funding for labor studies and research in the university system, a veto that has forced most of the university labor programs to shut down or be scaled back.<sup>146</sup> In Massachusetts, the GOP Governor's administration has also enacted slashing budget cuts on the University of Massachusetts Labor Studies department.<sup>147</sup>

The reasons for the attacks are clear: in a world where corporations and business schools churn out pro-corporate analyses of the economy, the last thing they want are alternative voices with the authority of the university challenging their data or critiquing corporate actions. But the precedent here could just be the first step in a more general conservative assault on university research: "If this attack succeeds," explains Gary Blasi, director of the UCLA Institute of Industrial Relations, "it will establish a precedent wherein any politician...can decide that they don't like a whole area of research at the university and take steps to end it. Today it may be labor studies, next time it may be AIDS research or Chicano studies."<sup>148</sup>

***"If this attack succeeds, it will establish a precedent wherein any politician...can decide that they don't like a whole area of research at the university and take steps to end it. Today it may be labor studies, next time it may be AIDS research or Chicano studies."  
-- Gary Blasi, director of the UCLA Institute of Industrial Relations***

## WEDGE ISSUES BY THE RIGHT

There is another set of issues promoted by conservatives at the state level, less financially vital to its corporate sponsors but useful in creating strains between different wings of the progressive movement and creating "wedge" issues for the next election cycle.

The anti-gay marriage laws sweeping through states are the most obvious examples of this kind of wedge issue and school vouchers are another key issue that can pit communities against each other. ALEC and its allies work to promote a whole menu of bills whose main purpose is dividing or distracting progressive forces, thereby making it easier to advance the corporate agenda far below the radar as debates rage on the "hot button" issues grabbing the headlines.

The following are just a sample of such issues promoted in recent years.

**Attacks on welfare recipients:** Without question, using welfare "reform" to force more poor people to compete for too few jobs and drive down wages helps the corporate bottom-line, but there is the even bigger payoff of focusing middle class resentment on vulnerable populations rather than the corporations themselves. By issuing a stream of new model bills attacking welfare recipients to capture the headlines, ALEC and other conservative groups in the states help focus the blame for unemployment on the poor, rather than on the corporations downsizing factories and outsourcing jobs.

**Sex Education and "Junk Science":** When the movie *Kinsey* was released in 2004, ALEC went into a frenzy of activity attacking Kinsey and the baleful effect his research had supposedly had on society, especially the promotion of sex education in the public schools. They sponsored a report attacking Kinsey's research and called for repealing sex education laws and toughening laws against obscenity: "It is time for state lawmakers to jettison bad policy based on bad science," argued the report's author Linda Jeffrey, "and to restore legal protections for American women and children."<sup>149</sup>

The language emphasizing "bad science" or "junk science," the same language used by corporations attacking plaintiff's attorneys, is no coincidence. The report was issued by the ALEC subcommittee on "junk science," neatly linking the religious conservative crusade to exclude sex education from the classroom to corporate efforts to exclude science criticizing corporate behavior from the courtroom -- all useful rhetoric to encourage social conservatives to see attacking trial lawyers as their crusade as well.

**"Academic Bill of Rights":** Complaining that conservatives have nowhere on campus where their views are respected -- the economics department, business school, and military-funded science labs aside of course --

conservatives have launched a campaign for legislation to allow students at state-funded schools to bring professors up on charges if they don't show sufficient respect for conservative views.

Partly, such bills help feed the rhetorical self-image of conservatives as a victimized minority, despite running all three branches of the federal government and most states. With the loss of the Soviet Union abroad, liberal academics have become a useful hate figure to unify conservatives – with the added bonus of chilling speech and research by progressive scholars fearful of losing their jobs to a conservative witch-hunt.

**Temporary Gas Tax Cuts:** When gasoline prices began skyrocketing in 2005, ALEC unsurprisingly promoted tax cuts as the solution. Since the cuts in the gasoline taxes proposed were temporary, however pleasing to the oil companies, these proposals were more in the way of a distraction than a serious policy proposal.<sup>150</sup>

But the campaign served to absorb much of the energy in the statehouses to "do something" about the high prices, diverting them from exploring price gouging by the oil companies or otherwise looking for serious alternatives to the US economy's dependence on oil as an energy supply. And it served to put progressive legislators in the uncomfortable position of either voting to oppose the tax cuts or face retaliation at the next election.

The purpose of all of these wedge issues is to divide voters over divisive issues, embarrass progressive legislators with bad voting options, and distract progressives from promoting a real alternative vision that would create a broader-based electoral alliance.

## FEDERALISM HYPOCRISY: CRIPPLING STATE POWER AND LOCAL HOME RULE

Despite conservative rhetoric, the New Deal system of government was dedicated to a strong federalist system. The national government enacted minimum standards in areas like the minimum wage or guaranteed pensions for the elderly, while giving states and local governments the freedom to pass stronger standards locally.

Conservatives seek to turn that system on its head, replacing our flexible system of federalism with a rigid straightjacket where states and local governments are hobbled by weak national standards and prohibited from strengthening them locally. Instead of minimum standards, federal laws become maximums. In turn, states hobble local government action beyond the maximums set by state legislatures.

**Federal Preemption:** ALEC and similar "state" groups serve a critical role for national conservatives—giving the conservative movement rhetorical cover for their hypocrisy in passing federal laws that preempt state power. The laws preempting environmental or prescription drug importation laws discussed above are only the tip of the iceberg of the whole-scale preemption of progressive state legislation in the last few years. To give just a few other examples:

- *Congress passed a supposed "anti-spam" law that was designed to preempt tougher state laws, along with passing another federal law to preempt tougher state consumer credit reporting laws<sup>151</sup>*
- *Congress passed a "Class Action Fairness Act" that allows corporations to run away from accountability before state juries by moving many class action cases to federal court.<sup>152</sup>*
- *Bush's Office of the Controller has adopted rules that deny states any authority to regulate the mortgage practices of national banks, a rule aimed at undercutting recent state efforts to rein in predatory lending practices.<sup>153</sup>*



- *The White House adopted rules prohibiting states from using unemployment insurance money to help pay for absences from work for family leave.*<sup>154</sup>
- *The Bush National Labor Relations Board supported striking down state laws that prohibited using state funds to campaign against unions.*<sup>155</sup>
- *And for all conservatives talk about abortion being a "state decision," Congress enacted a law that bars states from requiring that hospitals in their states make abortion services available to patients.*<sup>156</sup>

**State Preemption:** And using state legislatures to attack the home rule powers of local governments is standard operating procedure for ALEC and its allies. With its attacks on local minimum wage, living wage, local planning, cable franchise, and municipal broadband laws detailed above, conservatives have been launching a virtual war on local municipal power around the country.

***"In Ohio, conservative state legislators passed a law banning local communities from regulating oil and gas drilling—leading to oil drilling in the Cleveland suburbs, including in a local cemetery."***

And new campaigns to preempt local power keep coming: in 2004, ALEC with the backing of the biotechnology industry began promoting "biotechnology state uniformity" laws to block local ordinances that were seeking to exclude genetically modified seeds from their communities.<sup>157</sup> By the end of 2005, fourteen states had passed "seed" preemption legislation. In Ohio, conservative state legislators passed a law banning local communities from regulating oil and gas drilling—leading to oil drilling in the Cleveland suburbs, including in a local cemetery.<sup>158</sup> And following Massachusetts, New York and California fully or partially preempting local rent control laws, ALEC continues to promote rent control preemption bills around the country.

With conservative federal courts regularly striking down progressive federal legislation, you end up with a perverse system of federalism where states block progressive local government power, the federal government blocks progressive state action, and then the federal courts step in to block progressive federal laws – a neat conservative system of mutually-assured destruction of progressive power at all levels of government.

# How Progressives Fight Back

So what do progressives do in the face of this coordinated assault on every lever of progressive policy?

The key is to fight back, coordinate our own battles and think as strategically as ALEC and its allies do to win back power at the state level. As People for the America Way said about what progressives needed to do in its 2003 report: "Progressives need a collaborative and equally coordinated effort to successfully counter ALEC's influence, expose its corporate and right-wing ties, and defeat dangerous proposals launched by this 'common enemy.'" <sup>159</sup>

While many grassroots efforts have continued across the country since that report, progressives have not established the coordinated efforts needed to beat back a rightwing attack that, if anything, has become deeper and more vicious in the intervening years. What is needed are three steps to take on the rightwing:

- *First, develop a deep national network of progressive legislators supported by grassroots organizations;*
- *Second, promote a set of popular issues that define the progressive state agenda in the minds of voters;*
- *And, finally, develop a larger set of policies that beat back the rightwing attack and strategically turn the tables on conservatives.*

Progressives need to use every tool of grassroots mobilization to build unity among progressive state legislators and deploy both strong policies and innovative strategies to beat the conservatives at their own game. Our overarching strategy has to be finding the best public policy and championing it with effective and cohesive messaging.

## THE HEADLINE ISSUES

Progressives can't win if they play defense. People do not unite in a cohesive way just to say "No." They need a popular set of issues that underline what progressives stand for, so they will have the unity to fight the hard battles where ALEC and other conservatives seek to pit different groups against each other.

The second step progressives must take is to highlight the issues that reflect their values: values of honoring the dignity of work, providing the resources to sustain families, protecting freedom of speech and belief, and promoting an innovative and ecologically sustainable economy.

The following is not a definitive list but are a few of the issues that have broad public support and would highlight the shared values of progressives across statehouses:

**Minimum Wage:** 72% of Floridians supported a higher minimum wage on the 2004 ballot, 20 percentage points more than supported George Bush, highlighting the fact that there is a deep consensus in our society that full-time workers deserve more than a poverty wage. In the same election, Nevada progressives were able to elect new members of their state legislature by tying their campaigns to a similar minimum wage ballot measure. One third of the population now lives in states with minimum wage levels above the federal level and campaigns and both raising it in those states and extending it to new states are a critical campaign to highlight the progressive commitment to the dignity of work.



**Health Care:** As a greater and greater proportion of the population lacks health insurance or is burdened with escalating insurance costs, progressives need to seize the issue to define their commitment to healthy families. Until more comprehensive solutions are enacted, progressives should follow the lead of states aggressively extending the CHIPS child health program to more and more children, with Illinois recently enacting a program that allows middle class families to enroll their children at a moderate price.<sup>160</sup>

Another complimentary approach is requiring employers not providing health care to match the standards of employers in their industry who do so. Such "fair share" health legislation has been enacted in New York City and Suffolk County and by both houses of Maryland's state legislature and is even being touted by the conservative speaker of the Idaho House of Representatives.<sup>161</sup> Such legislation can unite progressives with many good employers who recognize that they are placed at an unfair economic advantage by businesses that dump many of their health care costs onto emergency rooms and public assistance.

**Valuing Families:** A key challenge for progressives is to reclaim the mantle of being the pro-family movement. Broadly embracing and enacting two policies, **Paid Family Leave** and **Pre-Kindergarten for All**, would go a long way in accomplishing that goal.

It is a national scandal that the US is the only developed nation that doesn't provide income for parents to care for new infants or to take care of a child or other family member when they are ill. California recently enacted a modest program to provide six weeks of paid leave for employees through an expansion of the state disability insurance program,<sup>162</sup> a model that could be emulated and expanded in other states.

Providing universal pre-school for all children is a critical program for helping ease the child care burden on parents and investing early in childhood education. Many states have increased funding for pre-K efforts, showing the popularity of embracing pre-school for all as a headline issue for progressives.<sup>163</sup>

**Free Speech in the Workplace:** One signature issue for progressives should be extending the First Amendment to the workplace, especially in an age when electronic monitoring increasingly erases the privacy of employees. Included in an "employee bill of rights" should be protection against retaliation for speech or activities during non-working time, a ban on employers coercing participation in political or religious meetings, full disclosure of all electronic monitoring or surveillance of employees, and "whistleblower" protection for all speech made to publicly expose illegal or unsafe practices by an employer.

Many states have been or are seeking to promote parts of this workplace free speech agenda; by doing so, progressives help shift the debate over the issue of freedom from the marginal issues conservatives use to distract voters to a real national debate on freedom during the forty-plus hours most people spend in the workplace each week.



**Clean Jobs and Smart Growth:** Progressives need a clear policy to promote economic growth in their states in a sustainable way. With over 90% of the population worried about dependence on foreign oil<sup>164</sup>, no issue gives them more opportunity to do so than promoting an energy policy focused on renewable energy sources and conservation, while redirecting wasteful urban sprawl through smart growth policies. Reducing energy costs through reducing dependence on oil is a long term way to attract business to a state and create new markets for home-grown energy businesses. And by creating new jobs, such policies can unite labor and environmental forces.

A number of prominent Governors have endorsed the Apollo Alliance, the labor-environmental coalition that is promoting key progressive energy policies<sup>165</sup> and the results from a few initiatives have been impressive. After Montana established a mandate for use of renewables by local utilities, the wind farm industry saw a large expansion

in the state.<sup>166</sup> A 2001 San Francisco initiative issued new "solar bonds" to increase efficiency in government buildings—a program that has created \$7.4 million in good new jobs, with the city saving \$200,000 a year on energy costs while cutting pollution.<sup>167</sup>

The key is not just to sell these as individual popular issues, but to weave a package of reforms that highlight progressive values and build loyalty to the progressive alliance. Just as conservatives have built strength through an ongoing alliance of corporate, religious and anti-government conservatives through a shared program, progressives need to build a similar durable mutual commitment to a common, broadly understood agenda.

## THE STRATEGIC AGENDA

In the end, however, progressives need more than just good, popular policies. They need to adopt a strategic vision that uses public policy to deflect conservative attacks, entrench progressive power and divide the coalitions that sustain the rightwing.

The third step progressives must take is to use legislation strategically to highlight the hypocrisy of groups like ALEC and put conservative legislators in the uncomfortable public position of voting either the interests of their corporate patrons or the desires of their constituents.

Again, the following issues are not exhaustive, but highlight a number of potential policies that serve these functions. Some are popular enough to be headline issues for progressive alliances and others may be sold as simple "good government" reforms, but each will also have the strategic value of strengthening the progressive agenda overall:

**Easing Residential Property Tax Burden:** A core source of the tax revolt, dating back to California's Proposition 13, has been cash-poor families fearing escalating property taxes as property values rise without matching income. This uncertainty has made rigid limitations on government taxing powers extremely attractive to many families.

To alleviate those concerns, during times of rapidly escalating property prices, "circuit breakers" on rising property taxes and expanded homestead exemptions can be used to ease the burden on homeowners.

Another potential solution is to allow families to defer payment of any increase in property taxes due to rising property values or tax rates until a house is sold. Governments could issue bonds against the taxes owed and pay the bonds off themselves as deferred payments are made. A number of states, including Colorado<sup>168</sup> and Minnesota<sup>169</sup>, already have such deferred property tax laws for the elderly and farmers. Expanding such property tax deferral programs to the whole population would allow governments to reassess property more often to apply fairer rates to all taxpayers. And by creating assurance that all taxes, including property taxes, will only be owed when a family has the ability to pay, such deferral programs strengthen support for raising the revenues to invest in education and other needed programs.

**Revenue Recovery:** One simple source of revenue for the states is to actually collect taxes owed them by tax evaders, particularly multinational corporations which evaded an estimated \$12 billion in corporate taxes owed to states in 2001 alone according to the Multistate Tax Commission. A number of states are pursuing measures to crack down on abusive tax shelters and enforce withholding taxes on out-of-state businesses when they sell property.<sup>170</sup>

Not only will such measures help increase revenue, but they will force uncomfortable votes on conservative lawmakers, votes that can be used against them at the next election if they choose their corporate supporters over funding the education and health needs of their states.

**Family Asset Preservation:** This proposed legislation would either create or restore estate taxes at the state level and dedicate the proceeds to providing the funds for seniors with few financial assets to qualify for Medicaid without selling off their homes. This policy is designed to directly highlight ALEC's nasty campaign to turn the homes of Medicaid recipients over to the banking industry. And the campaign will force conservative legislators to choose between preserving the assets of their wealthy supporters versus helping average families preserve a few assets from medical bankruptcy so they can pass them onto the next generation.

**"Right to Trial" and Ending Secret Settlements:** Progressives need to package their response to "tort reform" restrictions as a progressive defense of the "right to a jury trial." Considering the rightwing spends so much time bashing judges, we need to emphasize to the public that the issue is *who* gets to decide on what evidence is accepted and how to assess damages. Unbiased juries or judges picked through the influence of moneyed politics?

And since the main goal of corporations is to force plaintiffs to give up their right to a trial and allow companies to cover up their crimes with secret settlements, a key policy goal of progressives should be to prohibit secret settlements except where vital privacy interests are at stake. Both Texas and Florida have enacted rules voiding any secret settlement meant to cover up a danger to the public health or safety.<sup>171</sup> Such laws could be expanded and made more effective through rules requiring mandatory filing of all settlements with courts. Where conservatives want to highlight the small number of extremely large verdicts, making such settlement information widely available would document that most plaintiffs receive only pennies on the dollar for their injuries—and that conservative "tort reform" and restrictions on employment lawsuits has allowed the corporate right to cover up rampant abuse under the seal of secret settlements.

**"Truth in Contracting":** To fight privatization, progressives need to use a favorite weapon of the right – cost-benefit analyses – to challenge the contracting out of public services. Any agency should be required to compare the true costs of private contracts with keeping work in-house, and only allow privatization where the private sector guarantees efficiencies and costs savings other than lowering wages.

Massachusetts has a broad contracting law and a few states like California and Maryland have enacted measures with partial protections against corrupt privatization.<sup>172</sup> This strategy puts conservative advocates of privatization on the defensive by demanding exactly the kinds of economic impact statements they usually promote in other venues and subjects corporate contractors to more scrutiny – increasing the likelihood of discovering scandals that will allow the reversal of contracting out decisions.

**Defunding the Prison-Industrial Complex:** The corporate prison industry helped enact "tough-on-crime" policies in this country, at least partly by preying on the economic desperation of dying rural towns to build political alliances around the prison-industrial complex. An alternative policy would reverse this trend by ending the warehousing of the mentally ill in correctional institutions, end "three strikes" policies for non-violent offenders, and end the rigidity of draconian sentencing laws.

To deal with the economic development concerns of voters in communities dependent on the prison industry, policies could require that money cut from prison spending be divided for alternative economic development in both the communities of the prisoners released and the communities surrounding the prison itself. Since studies show prisons have limited economic benefits for communities where they are placed<sup>173</sup>, such a policy could create a broad, multi-district constituency for reversing mindless "truth-in-sentencing" laws in favor of community-based alternatives to incarceration and better economic development strategies using prison dollars. States like Connecticut already devote former prison dollars to economic development in the communities of the former prisoners, so adding in economic development funds for the prison communities will no doubt be a popular expansion of such models.

**Using Public Pensions for Job Growth:** In general, progressives have largely neglected the potential of \$2.7 trillion in public pension fund assets to help revive struggling communities across the nation. Progressives should

make devoting portions of those pension assets to range of economic development activities -- including affordable housing, community-based economic development, revitalization of manufacturing, and support for small businesses -- a core of their economic message. Investments could be made that achieve collateral benefits while earning the returns necessary to meet the obligations to pension plan participants and beneficiaries.

The strategic part of this policy is that once these investments are made in legislative districts across a state, it will be nearly impossible for legislators to support privatization of those pension funds, since small businesses and others dependent on jobs from those investments will have become core defenders of the pension system.

**Reclaiming Corporate Property as Public Space:** Public space is increasingly disappearing in modern America, whether it's Wal-Mart replacing the downtown shopping district or corporate owners shutting down open hunting and fishing areas in rural communities. There is an opportunity, however, for progressives to undermine the whole "property rights" coalition by promoting a campaign to reclaim public space from corporate property owners.

The town of Hartford in 2004 passed an ordinance requiring certain retailers to open their sidewalks and outside public areas to the community for non-commercial speech and fundraising activities. Promoting similar legislation in other states creates the opportunity for progressives to build coalitions between unions and religious groups like the Salvation Army, which has found itself unable to do its traditional fundraising at many large stores.<sup>174</sup>

In rural areas, states like Montana use a combination of land regulation and tax incentives to open up private land to fishing, hunting and other outdoor recreation.<sup>175</sup> Combined with efforts to block attempts to sell public lands to mining or other interests, campaigns like this can create new progressive alliances with hunting and outdoor sports groups against rightwing "property rights" limits on land use regulation.<sup>176</sup>

**Contraception Equality:** Requiring insurance companies to provide contraception on the same terms as any other kind of medication is essential to assuring women's equality. It's also popular public policy with 77% of the public supporting laws to require insurance companies to provide prescription contraceptives.<sup>177</sup>

The key is raising the profile of the issue to highlight the extreme rightwing legislators who would oppose contraceptive equality laws. Just as conservatives raised the profile of "partial birth abortion" to divide progressives and identify them with the least popular aspects of abortion, so too progressives will gain by moving the debate back towards identifying conservatives with the most extreme opposition to basic contraception and women's equality.

**Resolutions Against Federal Preemption:** One strategy to expose the hypocrisy of conservatives on "states rights" is a high profile campaign of multiple non-binding resolutions in statehouses condemning federal laws that prohibit states from passing stronger state environmental, consumer and employment standards.

The campaign would both raise public awareness of the problem of federal preemption and embarrass conservatives at the state level who would either have to repeatedly vote in support of more federal power or vote to condemn their compatriots in Congress who keep undermining the power of state government to protect the public.

**Voting Rights:** Possibly the most important strategy for progressives is to keep expanding voting rights. Conservative groups like ALEC see the advantages to their side in restricting the vote through legislation like narrow voter ID laws,<sup>178</sup> so progressives need to take every opportunity to expand the electorate,





whether through promoting election day voter registration, ending felony disenfranchisement, or enacting state programs to assist immigrants with the naturalization process.

Ultimately, each strategic issue will reinforce the others, undercutting opposition coalitions while adding new allies to the progressive side, exposing the hypocrisy of the conservative agenda while clarify the progressive program, and step-by-step entrenching progressive power in ways that the rightwing will find harder and harder to dislodge.



## Conclusion

What ALEC and its conservative allies have demonstrated is that you can control a large portion of national public policy if you control the statehouses. And ALEC has demonstrated that, given the thin staffing of state legislatures, a strong political force can control the agenda of those statehouses with a coordinated strategy and smart public policy.

Progressives can keep playing defense against ALEC and its corporate sponsors, or we can learn these lessons and turn the tables on the rightwing. We can create the national networks and the coordinated program to set the agenda in the statehouses, while applying our strategic intelligence to outmaneuver conservatives.

While progressives will never be able to outspend the rightwing on politics, we have an inherent advantage: the policies we seek to promote – a decent wage, health care, non-toxic drinking water, and a fair economy – have broad popular support. Conservatives need every financial resource and media strategy to disguise the effects of their policies, while progressives just need enough strategy, combined with the strength of a coordinated grassroots, to make sure the truth isn't obscured and distorted.

If progressive legislators are armed with the legislative tools and mobilized support of our grassroots organizations, we can reverse conservative dominance of public policy and begin a new era of progressive governance of our nation's statehouses. And as the right has taught us, if you govern the statehouses, you can largely govern the nation.

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